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BOARD MEETING  
STATE OF CALIFORNIA  
INTEGRATED WASTE MANAGEMENT BOARD

JOE SERNA, JR., CAL/EPA BUILDING  
1001 I STREET  
2ND FLOOR  
BYRON SHER AUDITORIUM  
SACRAMENTO, CALIFORNIA

TUESDAY, MAY 20, 2008  
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PETERS SHORTHAND REPORTING CORPORATION (916) 362-2345

APPEARANCES

BOARD MEMBERS

Ms. Margo Reid Brown, Chair

Ms. Rosalie Mul

Ms. Cheryl Peace

Mr. Gary Petersen

STAFF

Mr. Mark Leary, Executive Director

Ms. Julie Nauman, Chief Executive Director

Mr. Elliot Block, Chief Counsel

Mr. Tom Estes, Director, Administration and Finance  
Division

Ms. Kristen Garner, Executive Assistant

Mr. Jeff Hunts, Branch Manager, E-Waste Branch

Mr. Howard Levenson, Deputy Director, Permitting and  
Enforcement Division

Mr. George Mendoza, Supervisor, Audits

Mr. Bill Orr, Chief, Cleanup Closure and Financial  
Assurances Division

Mr. Trevor O'Shaughnessy, Supervisor, Minimum Content  
Compliance Section

Ms. Rubia Packard, Assistant Director, Executive Office

Mr. Ted Rauh, Program Director, Waste Compliance and  
Mitigation Program

Ms. Lorraine Van Kekerix, Acting Deputy Director

Mr. Scott Walker, Branch Manager, Cleanup Branch

Ms. Shirley Willd-Wagner, Division Chief, Financial  
Assistance Division

APPEARANCES CONTINUED

ALSO PRESENT

Mr. Matt Bogoshian, Deputy Secretary, Cal/EPA

Mr. Dennis Kazarian, E-Recycle of California

Mr. Bill McGeever, ASL Recycling

Mr. Mark Murray, Californians Against Waste

Mr. Chuck White, Waste Management

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1 PROCEEDINGS

2 CHAIRPERSON BROWN: Good morning. Because of the  
3 fire alarm, which doesn't effect us, the effect is the  
4 doors downstairs are closed. So people that are intending  
5 to come to this Board meeting do not have access at this  
6 time for about the next five minutes until they clear the  
7 floors on 14 and 15. So we're just going to hold for a  
8 few minutes until those people have access to the second  
9 floor to get here. So visit, mingle. We'll start in  
10 about five minutes.

11 (Thereupon a recess was taken.)

12 CHAIRPERSON BROWN: We'll go ahead and start.  
13 Thank you very much for the indulgence. I think that  
14 clears us for the fire drills for the month of May.

15 We'll call this meeting to order and ask Kristen  
16 to call the roll.

17 EXECUTIVE ASSISTANT GARNER: Chesbro?

18 Mulé?

19 BOARD MEMBER MULÉ: Here.

20 EXECUTIVE ASSISTANT GARNER: Peace?

21 BOARD MEMBER PEACE: Here.

22 EXECUTIVE ASSISTANT GARNER: Petersen?

23 BOARD MEMBER PETERSEN: Here.

24 EXECUTIVE ASSISTANT GARNER: Brown?

25 CHAIRPERSON BROWN: Here.

1           Member Chesbro is on an official trip on behalf  
2 of the Board traveling to Ireland to make a speech. So he  
3 will not be with us today.

4           Anybody have any ex partes to report? I believe  
5 everybody is up to date.

6           And we'll start -- actually, I will mention one  
7 thing. Secretary Adams sent out an all-staff, all-hands  
8 e-mail reminding people this is the million mile month of  
9 May encouraging people to ride your bike whenever possible  
10 to work, to errands, and in the neighborhood. So I'd like  
11 to encourage all of you to do that and log in and log your  
12 miles.

13           And next I will turn to Mark for your  
14 presentation.

15           EXECUTIVE DIRECTOR LEARY: Thank you, Madam  
16 Chair. Good morning. Good morning, members. I have a  
17 couple of short items.

18           One of the nicest things for our staff is to be  
19 recognized by their peers. And we've had a couple of  
20 instances that occurred recently where their colleagues  
21 have represented the outstanding work of our staff.

22           The first instance was one in which the Board  
23 staff were involved with the Angora fire and have been  
24 nominated for the Governor's employee safety award.

25           As you'll remember, our seven or eight staff

1 involved with the Angora fire, we had no accidents, no  
2 instances of anyone being injured or anyone being hurt.  
3 As a result, their peers have nominated them for a  
4 Governor's employee safety award. I'm very pleased to  
5 report that the following individuals are part of the  
6 nomination: Todd Thalhamer, Andy Marenno, Wes Mindermann,  
7 Bernie Vlach, Tabetha Willmon, Scott Walker, Natalie Lee,  
8 Marc Arico, Frank Simpson, Abel Martinez, and Glenn Young.

9 Another instance that's occurred recently is our  
10 Public Affairs staff have been recognized for their  
11 outstanding outreach and communication efforts. Our  
12 Office of Public Affairs actually and the Education and  
13 the Environment staff received recognition from the State  
14 Information Officer's Council. The Board received a gold  
15 award for the best media clip for our effort during  
16 National Fire Safety Week in 2007 and silver award for the  
17 very successful erecycle.org campaign, and further a gold  
18 award for excellence in government communications for our  
19 teacher training EDD associated with EEI.

20 In regards to furthering the Board's efforts on  
21 organics, Howard and I and several of our staff met with  
22 our counterpart at the State Water Board Dorothy Rice and  
23 many of her staff about furthering our collaborative  
24 organics efforts. And I just want to briefly report to  
25 the Board that that collaboration I think will result in

1 new resolution of policy and regulatory differences or  
2 possible lack of priorities. And I think we will work  
3 through some of those working with the Regional Board and  
4 continuing to develop the organic infrastructure that we  
5 all see in the state of California.

6           Then I'd like to give a little bit of my time to  
7 Matt Bogoshian from Cal/EPA. As you'll remember, Matt is  
8 our Deputy Secretary for Law Enforcement and Counsel and  
9 has served us since September 2007 and is here to report  
10 on the fabulous work we are contributing to on behalf of  
11 all of the enforcement activities at Cal/EPA.

12           MR. BOGOSHIAN: Thank you. And good morning,  
13 Madam Chair and members. My name is Matt Bogoshian. And  
14 I'm Deputy Secretary for Cal/EPA. That's two jobs there.  
15 One is the Chief Counsel for the Agency. And in that  
16 capacity, we get all the BDO Chief Counsels together. So  
17 we're fortunate to have Elliot Block sit at that table for  
18 us where we address kind of the BDO-wide legal issues that  
19 confront us as an agency and each of the BDOs.

20           So we work very hard with our monthly meetings to  
21 try to look at what I consider the highest common  
22 denominator so that we have the policies BDO wide that are  
23 the best. And we share and learn from one another on how  
24 the improve our legal position and legal policies within  
25 each BDO. So I want to thank Elliot for his good work on

1 that and it's ongoing and very important work.

2 My second job has to do with what Mark was  
3 talking about, which is enforcement. My background is as  
4 a prosecutor. Governor Schwarzenegger appointed me as  
5 Secretary Adams' Deputy to push enforcement, cross media  
6 enforcement, collaborative enforcement. And it's a lot of  
7 hard work. In that regard, we have a chief enforcement  
8 group. And Ted Rauh sits at that table. And I guide that  
9 group as well with respect to collaborative enforcement.

10 And as you probably recall, Secretary Adams  
11 signed into policy the enforcement initiative back in  
12 November, and that has a bunch of sub-parts to it. And  
13 Ted's work with his team is really essential to the  
14 success moving forward on that, and it's on a variety of  
15 fronts. And I won't go through them now. But they  
16 include this kind of cross media collaboration. And in  
17 training not only cross media but all the way up and down  
18 the chain of our decentralized law enforcement team.

19 In the degree of waste management, we have law  
20 enforcement partners which are essential to leveling the  
21 playing field in California for businesses to compete.

22 And so Ted's work there as a member of this team  
23 and the rest of the Integrated Waste Management team on  
24 this enforcement initiative piece is really crucial.  
25 That's a training part of it.

1           There's a data part of it which would be exchange  
2 and collection exchange and dissemination of information  
3 to not only ourselves but to the public is crucial. And  
4 how we report out on that transparency really gives this a  
5 great deal of credibility in the community so that we can  
6 continue the good work that we've embarked upon.

7           So I just wanted to come down here. And Mark, I  
8 appreciate the opportunity to come in on your time to give  
9 you, Madam Chair, the update and the rest of the members  
10 the update on what we're working on.

11           CHAIRPERSON BROWN: Great. Thank you very much,  
12 mat. Appreciate you being here. Appreciate the update.

13           Anybody have any questions?

14           Great. Thank you very much.

15           EXECUTIVE DIRECTOR LEARY: Madam Chair, before I  
16 conclude, I can't help but have to reason that the  
17 organization's great when their leader walks the talk. Or  
18 in this case bikes the talk. I think everyone needs to  
19 know that you are leading the efforts toward a million  
20 miles. I'm sure you cumulated a couple hundred thousand  
21 yourself. And we all appreciate your leadership.

22           CHAIRPERSON BROWN: I'm trying to get the ten  
23 before the end of the month. But that's ten more than I  
24 did last month or last year.

25           Anyway, thank you, Mark.

1           We have a long agenda today that hopefully we'll  
2 get through very efficiently. But we'd like to take a  
3 couple of items out of order in order to facilitate travel  
4 and guest speakers. So before we get to our consent  
5 agenda and any items before the full Board, I'd like to  
6 move first to Agenda Item 26.

7           And let me mention there are agendas in the back  
8 of the room if you don't have them, if anybody would like  
9 to speak to any future agenda item.

10           And we will move first to Agenda Item 26. And I  
11 will it turn over to Mark to introduce our guest speakers.

12           EXECUTIVE DIRECTOR LEARY: Thank you, Madam  
13 Chair.

14           In Los Angeles, the Angelenos speak with great  
15 pride of the motion picture and television industry. In  
16 Seattle, it's Starbucks and Boeing. In San Jose, it's the  
17 computer industry. In my home down of Illinois, it's  
18 Caterpillar tractor. And I've just recently become fairly  
19 aware of the tremendous efforts Caterpillar is doing. Not  
20 a small company by any means. A Fortune 50 company,  
21 international operations who is leading the way among the  
22 big companies in the world and towards sustainability  
23 practices.

24           And I have to admit conflict. My brother works  
25 for Caterpillar. He's currently operating out of Belgium

1 international sales with his family and living his life  
2 over there and working for Caterpillar.

3 Caterpillar is a tremendous company in the sense  
4 that they foster home-grown talent. And I had the  
5 privilege of having grown up with a couple of the group  
6 vice presidents who may ultimately be the president and  
7 CEO of the company raised in Peoria and are working for  
8 Caterpillar at the world headquarters there in Peoria.

9 So without further ado, Caterpillar, since its  
10 inception 80 years ago, has grown to be the world's  
11 largest maker of construction and mining equipment, diesel  
12 and natural gas engines, and industrial gas turbans. In  
13 partnership with their worldwide dealer, they drive  
14 positive and sustainable change on everything on every  
15 continent. They deliver products, services, and  
16 technologies and full lines of business, machinery,  
17 engines, and financial products. As a global, diverse  
18 technology, Cat's commitment to excellence is all they do.

19 I'd like to introduce Joe Allen who's the  
20 Director of Sustainable Development for the  
21 remanufacturing division who's here from my home town.

22 CHAIRPERSON BROWN: Welcome, Joe. Thank you for  
23 coming out.

24 (Thereupon an overhead presentation was  
25 presented as follows.)



1           MR. ALLEN: Thank you very much. And Madam Chair  
2 and Board, it's an honor to be here today.

3           And Mark, thank you for that introduction. We do  
4 have something in common. I had never met Mark until I  
5 came out the California. We spent a lot of time in the  
6 same ponds back in Peoria.

7           Let me get the presentation up here.

8                               --o0o--

9           MR. ALLEN: Thank you very much. I always enjoy  
10 getting back to California. For several years in the late  
11 '80s I lived in the Bay Area with Caterpillar, so I have  
12 fond memories of the state. And it's always fun to get  
13 back every chance I get.

14           So in the spirit of efficiency, I'll try to go  
15 through my presentation as quickly as possible. And what  
16 I want to talk about this morning is what we're doing at  
17 Caterpillar related to extended producer responsibility  
18 and how that really fits with the good work that's going  
19 on to really look at how do we drive extended producer  
20 responsibility in ways that really complement the goals  
21 that the Board has, but then also that are sustainable  
22 from the business standpoint.

23           And the Board members in front of you have a copy  
24 of our Caterpillar sustainability report. And I just  
25 wanted to mention on page 2 and 3 a couple of metrics that

1 we put out as a company to really show where we're driving  
2 the company. And then I'm going to -- that's kind of the  
3 high level discussion I'm going to go into.

4 But I want to go into a laser focused discussion  
5 of the specific take-back program and business model that  
6 we have in place in the company.

7 But a couple of the top level metrics I think  
8 will be of note for this group is by 2020 our corporate  
9 goal is to help customers, people using the products we  
10 produce, to reduce their material usage by 20 percent and  
11 the greenhouse gas emissions by 20 percent.

12 In our facilities, we have a bolder goal to  
13 reduce our greenhouse gas footprint by 20 percent within  
14 our facilities by 2020.

15 And then the one that I think really stands out  
16 is for us to get to by 2020 a zero landfill footprint for  
17 the company. So that's what we're driving at. And you're  
18 going to see one example of how we're going to do that  
19 I'll talk about. That's about our re-manufacturing  
20 program at Cat.

21 --o0o--

22 MR. ALLEN: As Mark mentioned, many of you know  
23 Caterpillar, we're those guys that make the big yellow  
24 machines and engines. You see them out running. We're a  
25 global company, a Fortune 50 company, that really focuses

1 on products that support infrastructure development,  
2 materials industries, power and energy, and mobility.

3           The thing that's unique as we're doing this on a  
4 global basis, these are expensive pieces of equipment.  
5 And as customers are trying to get the best economic life  
6 out of them, the best way to do that is to build the  
7 machines so they'll have multiple lives. And to do that,  
8 you also have to have infrastructure in place to be able  
9 to deliver multiple lives. So we put a lot of effort on  
10 support through the first life cycle and multiple life  
11 cycles. We really bundle that into the three Rs of  
12 reduce, reuse, and recycle to help customers achieve best  
13 value from their products.

14                               --oOo--

15           MR. ALLEN: And a key portion of that is our  
16 re-manufacturing program where we actually bring back  
17 mostly components because that is how machines and engines  
18 are supported. But we bring them back at the end of their  
19 life and will re-manufacture them into the same as new  
20 original condition or better if we're able to put new  
21 engineering changed into that product. It's a large  
22 closed loop recycling mechanism we have in place on a  
23 global basis. And the benefits to the customers are the  
24 same as new performance. But they also have products that  
25 cost about half of what the new product costs. So they're

1 able to support the products at a much more cost effective  
2 price point.

3 --o0o--

4 MR. ALLEN: The business model looks like this  
5 where we have end-of-life take-back. We use advanced  
6 technologies to re-manufacturing products. We always have  
7 to put a few new things in because you can't  
8 re-manufacturer everything.

9 And then end-of-line assembly, if you see our  
10 re-manufacturing facilities, it looks like new  
11 manufacturing at that point in the process. And again  
12 we're able to take those products back to a same as new  
13 machine or better if we can design in upgradability into  
14 the product up front.

15 --o0o--

16 MR. ALLEN: The program has grown to be a very  
17 large part of our product support footprint within the  
18 company. In 2007, we did over two million units. Those  
19 would be piece parts or complete engines, other  
20 components.

21 We brought back over two billion pounds of  
22 material. That includes a progress rail division. And we  
23 have 15 dedicated facilities around the world that's all  
24 they do is re-manufacture products. So it's become a  
25 large part of our overall footprint of the company.

1                               --o0o--

2               MR. ALLEN:  And again, it really goes back to the  
3   strategic approach of how we're supporting our products  
4   and investments in technologies and systems to do that.

5               We use fairly sophisticated technologies such as  
6   you see on the slide, the thin film coatings where we're  
7   putting microns of material back on parts so we can bring  
8   them back to a like new condition.

9               And then others are a lot less sophisticated  
10   where we have basic inspections and make sure that  
11   components meet their original dimensions.

12                           --o0o--

13              MR. ALLEN:  When you compare new products and  
14   re-manufactured products, by strategy, we ensure that the  
15   product will perform the same way it did when it was new.  
16   We had engineering prints for all of the products, same as  
17   new functional specs.

18              But the one that I think is most important -- and  
19   when you think about it from a policy standpoint, we've  
20   been able to do this because we have a sustainable  
21   business model.  But design for re-manufacturability or  
22   eco-design, there's lots of different terms.  We use  
23   design for re-manufacturability, we build that in as a  
24   strategy into our new designs.  And that's an area I think  
25   we found to be very, very successful.  And I think as

1 companies are able to really look at that from a strategic  
2 point of view and not necessarily tactical point of view,  
3 there's some big, big benefits that come out of that.  
4 We're starting to reap those benefits now from our past of  
5 trying to design in years ago multiple lives into  
6 products.

7 --o0o--

8 MR. ALLEN: When you look at take-back, when I  
9 said this is a big recycling program, it really is. And  
10 it imbeds a basic strategy of take-back into how we  
11 support our machines and equipment.

12 If you use the basic example of the coke  
13 bottle -- and the young people in here, they may not have  
14 been familiar with that. We used to buy a coke for a  
15 dollar and you have a 25 cent deposit. You bring the  
16 bottle back and you get your 25 cents back. In our mode,  
17 that's the remand program. It's take-back. And there's  
18 value in this case in the bottle. And in our products,  
19 there's value in the end-of-life product at the end of its  
20 first life.

21 And it's so important to us that we built our  
22 program so the deposit actually drives the behavior to get  
23 the end of life products back to us at percentages that  
24 are fairly unprecedented.

25 --o0o--

1           MR. ALLEN: When you look at our re-manufacturing  
2 program today, our end-of-life return rate -- this is on a  
3 global basis right now at 93 percent. So for every 100  
4 re-manufactured parts we sell, we get 93 back.

5           And, again, it's taken us a long time to get  
6 there. There's no magic. It's just strategy, hard work,  
7 systems, et cetera, and a lot of logistics work. But at  
8 the end, now we're starting to reap the real benefits of  
9 that. Because now you have a lot of material that helps  
10 us keep the cost down that, that makes it more financially  
11 sustainable.

12           We still sell lots of new parts. We don't get  
13 any of those back. That might be a hint of where we're  
14 going in the future if you think about it. But there's  
15 nothing that says you can't sell a new one and have a  
16 quarter deposit. We're not there yet. But we found  
17 through experience there's a very viable, sustainable  
18 business model here, and the results are pretty  
19 attractive.

20                               --o0o--

21           MR. ALLEN: The next one, another side benefit  
22 that pops out of here is the basic sustainability  
23 environmental footprint. In this case, a re-manufactured  
24 product versus a new product. And we've done some  
25 internal studies. And this shows an example of an engine

1 component a cylinder head of what it would look like if we  
2 made a new cylinder head versus a re-manufactured cylinder  
3 head. And the numbers impress us. So we were surprised.  
4 We thought they were going to be good, but they came out  
5 really good. Over 60 percent reduction in greenhouse gas  
6 in the production of the part. And you remember we're  
7 preserving everything, so it makes sense.

8           Significant reduction in water use and energy  
9 use. A little bit of a good surprise was it's much safer  
10 because we don't have heavy machinery. We don't have  
11 foundries, others things involved in making the new part  
12 because we preserved all that.

13           And the material used in landfill space. It's a  
14 home run, significant. And this gives you a little window  
15 into we're putting out bold goals for the company of being  
16 a zero landfill company by 2020. Those types of  
17 mechanisms will allow us to get there.

18                               --o0o--

19           MR. ALLEN: And you know when you sum up our  
20 re-manufacturing program, we're doing a lot less of the  
21 things that we want to do and a lot more of the things  
22 that we want to do related to the more side.

23           A couple of interesting ones, controlled  
24 industrial processes. Now re-manufactured product, all of  
25 the cleaning if there ever happened to be solvents and



1 other things used in the process, it's done in a  
2 controlled manufacturing environment now. It's not done  
3 some somebody's garage or out in the field, et cetera.

4           Affordable development, when you look on a global  
5 basis of being able to support products in very remote  
6 areas of the world, whether it's a road project or water  
7 project, et cetera. Now you're able to have a more  
8 affordable way to support that product so you get more of  
9 those projects done.

10           More jobs, job creation. We found that remand  
11 has been a significant job creator because it's a process  
12 that's a little bit counterintuitive. You don't take  
13 people out of the process to remand like you might on  
14 manufacturing. You tend to add people because all of the  
15 money is made and saved in the products so you need more  
16 people to do it.

17           And then extended producer responsibility. And  
18 the nature of the business model is take back. And  
19 getting our re-manufacturing program in place has put the  
20 platform on a global basis for us to build on to continue  
21 to expand into additional extended producer responsibility  
22 focus.

23                               --o0o--

24           MR. ALLEN: I want to finish with just a couple  
25 of examples of EPR that we're doing today. The machine

1 you see up on the top left there, that was a machine in  
2 Florida obviously at the end of its life. Machine on the  
3 right is the same machine after it's been gone through  
4 what's called a certified re-build where we provide  
5 re-manufactured parts, new parts, and engineering  
6 specifications to our dealer.

7 Also on this one, update to a newer technology  
8 emissions engine in this same process. And it's fully  
9 warranted. So there's an example of how you can take  
10 these types of programs and build on them to do things  
11 that not that many years ago we really weren't thinking  
12 about doing.

13 --o0o--

14 MR. ALLEN: Another one that I think is rather  
15 exciting when you look at complete take-back program and  
16 how do you bring products back from all over the world,  
17 maybe reconfiguring them into other applications. Look in  
18 the space of renewable fuels and you look at biogas as an  
19 example whether it's landfill gas or agriculture waste  
20 gas.

21 --o0o--

22 MR. ALLEN: We have a pilot project going on  
23 right now where we're taking back diesel truck engines  
24 from North America, re-manufacturing them into gas  
25 configurations of that engine that burn methane, package

1 them in a generator set, and then sell them into the  
2 developing world. Capture methane, burn the methane, put  
3 power to the grid that really needs it, and you get carbon  
4 credits out of it. There's an example.

5           It wasn't that many years ago I think most of us  
6 were thinking about those kind of things. But once you  
7 get the basic infrastructure and strategies in place, all  
8 of a sudden these types of things start popping out as  
9 opportunities.

10                               --o0o--

11           MR. ALLEN: And the last one I wanted to touch on  
12 is electronic waste, a growing global problem. We're  
13 pretty clear at Caterpillar we want to be part of the  
14 solution, not part of the problem. I'm sure all companies  
15 believe that. But we're starting to look at our  
16 re-manufacturing take-back program as, hey, there's  
17 something that we may be able to provide part of the  
18 solution.

19                               --o0o--

20           MR. ALLEN: What we've done recently is  
21 accelerated our re-manufacture of electronic components.  
22 You can imagine what the technologies on our engines and  
23 machines we have lots of electronics, you know, computers,  
24 et cetera. And they do have a finite life. At the end of  
25 life, where is that stuff going? So we're accelerating

1 expanding our remand program so when someone needs a  
2 service replacement, you don't throw the old one away.  
3 You buy a remand. And the core, the end-of-life product  
4 comes back to us just like any other remand part.

5 And we're seeing very, very rapid growth in our  
6 electronics remand program. And our focus is to continue  
7 to expand that. And again at some point in time, we'd  
8 love to have a zero e-waste footprint. That's our vision.  
9 And we're moving that direction fairly quickly.

10 --o0o--

11 MR. ALLEN: The thing that I think really becomes  
12 clear as we're looking at these types of initiatives and  
13 really a cradle to cradle focus, it becomes strategic for  
14 companies. But obviously as policy makers it becomes  
15 strategic too because you're trying to create the  
16 frameworks that allow companies to be financially  
17 successful and drive forward in the market.

18 But it's very clear -- it wasn't that many years  
19 ago -- I probably wouldn't be here talking to the group.  
20 But when you look at the top right, the intelligent  
21 choices portion, it really is a collaboration of policy  
22 makers, industry, NGOs. Everybody plays a part.

23 And I think I really commend Mark and all of you  
24 for really embracing that and asking me to come in just to  
25 share a little bit of what we're doing and some of our

1 viewpoints. I think that's the one that really drives us  
2 all forward to sustainable solutions into the future.

3 Thank you very much.

4 CHAIRPERSON BROWN: Joe, that was incredible.

5 One question came to mind. I think a lot of us  
6 when we talk about end-of-life management and solutions --  
7 and the Governor certainly talks about the environment and  
8 the economy working hand in hand. Have you realized  
9 economic benefits to putting a lot of these  
10 re-manufacturing programs into place for CAT in addition  
11 to your customer base?

12 MR. ALLEN: That's a good question. And yes, we  
13 have. I didn't go into that. But this is the fastest  
14 growing division in the company right now. It has one of  
15 the most attractive financial returns for the company.

16 And in 2004 we expanded our business model to  
17 include re-manufacturing services for other companies.  
18 Because we see this as a competency and we have  
19 significant investments. So we're actually  
20 re-manufacturing for other companies now also. And that's  
21 financially attractive.

22 So it is one that -- you know, the three pillars  
23 of sustainability. You have to have society, the  
24 environment, but the business piece of that has to hold  
25 up. And in this case, it's a significant winner.

1           CHAIRPERSON BROWN: Great. It's a perfect  
2 example of what we're looking for, which is designing for  
3 front end solutions to end-of-life management. And you  
4 certainly have taken a significant step towards what we're  
5 looking at as an ideal EPR model, which is the  
6 manufacturer taking responsibility and looking at  
7 innovative ways. And the remand program clearly is  
8 exactly the model for a producer responsibility program.

9           MR. ALLEN: And it's not a fit in all cases, of  
10 course. And in consumer, it gets a lot more difficult.  
11 It goes back to basic strategies, and some of these  
12 approaches do apply.

13           CHAIRPERSON BROWN: And where we're going is that  
14 the manufacturer takes responsibility for designing a  
15 program that fits with their industry. That's what you've  
16 done. You're right. It's not a one size fits all. It's  
17 industry or product type by product type as opposed to  
18 saying this is how we want an EPR program to run. And  
19 it's innovative solutions looking at the bottom line and  
20 doing what you guys are achieving.

21           So anyway, I see Member Petersen's chomping at  
22 the bit to engage on a couple of questions.

23           BOARD MEMBER PETERSEN: He's our hero here. This  
24 is amazing. Great stuff. Can I have a copy of the slide  
25 show?

1 MR. ALLEN: Yes.

2 BOARD MEMBER PETERSEN: I worked with a lot of  
3 industries and done a lot of this. And my hats off to you  
4 guys.

5 One of the biggest things that you deal with with  
6 major corporations -- at least I have in my past life  
7 doing all this -- is getting the corporate buy-in and then  
8 showing them the dollars and cents. It's not just about  
9 the environment. It's about how you make money doing the  
10 right stuff. And that's what's so important. You guys  
11 are a real model, and I'll be talking about you to  
12 everybody. That's not a commercial.

13 CHAIRPERSON BROWN: Okay. My other little  
14 question is do you have remand -- the little CAT tractors  
15 you guys give away, do you take those back and remand  
16 those? I think Mark needs a little CAT tractor on his  
17 desk right there.

18 MR. ALLEN: We don't remand yet, but we'll have  
19 that on the list. That's for sure.

20 BOARD MEMBER PEACE: I just -- this is  
21 incredible. I want to thank you for being here. And this  
22 is making the world a better place. If all businesses  
23 thought the way you did, what a difference we can make.  
24 It's great. Thank you.

25 MR. ALLEN: Thank you.

1               BOARD MEMBER PETERSEN: Thanks, Joe.

2               BOARD MEMBER MULÉ: Thank you, Joe. I just want  
3 to add my thanks for you being here.

4               I had the opportunity to meet Joe about a year  
5 ago, was it, when you were here with the Chinese  
6 delegation.

7               And I'm really glad, Mark, that you brought Joe  
8 back to talk about this program that you have. What  
9 impresses me is that you did this without being asked or  
10 forced to do it by law or regulation. You as a company  
11 made the decision that this was going to be the right  
12 thing to do for the environment, for your bottom line, and  
13 for society in general. And you went ahead and did it.  
14 And again my hats off to you. You really are a model for  
15 other businesses to follow. So thank you again for being  
16 here. I appreciate it.

17              MR. ALLEN: Thank you very much.

18              CHAIRPERSON BROWN: Thank you very much.

19              Okay. Now the fun is over. Get down to real  
20 business here.

21              And I believe we have no items on regular consent  
22 agenda. Is that a first? I think that's a first.

23              The rest are on fiscal consent. Items 1 revised,  
24 2, 3, 13, 14 revised, 15, 16, 17, 18, 19 revised, 20  
25 revised, 21 revised, 23, 24, and 25 are on fiscal consent.



1 These items will be taken up in order. And we will do  
2 somewhat of an abbreviated presentation to move them  
3 along.

4 Items 4, 5, and 8 were heard in Committee only.

5 Item 22 was pulled.

6 Item 6, 7, 9 revised, 10, 11, 12, and 26 will be  
7 heard by the full Board in order. Take 26 off. We just  
8 did that.

9 So we'll move first to the consent agenda, Item  
10 1. Bill, I think you're here in place of Ted.

11 CLEANUP CLOSURE AND FINANCIAL ASSURANCE DIVISION

12 CHIEF ORR: Good morning, Madam Chair and Board Chairs.

13 My name is Bill Orr, the Chief of the Cleanup Closure and  
14 Financial Assurances Division.

15 Agenda 1 is consideration of contractor for  
16 environmental investigative services contract. This item  
17 requested the Board to consider and approve the contractor  
18 to provide site services and related services to assist in  
19 the investigation and enforcement of state minimum  
20 standards at closed, illegal, and abandoned solid waste  
21 disposal sites in California.

22 CHAIRPERSON BROWN: Okay.

23 CLEANUP CLOSURE AND FINANCIAL ASSURANCE DIVISION

24 CHIEF ORR: Staff recommends that the Board approve Option  
25 1 with Ninyo & Moore as the proposed contractor and adopt

1 Resolution 2008-72 revised.

2 CHAIRPERSON BROWN: Any questions?

3 BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
4 the resolution.

5 BOARD MEMBER PEACE: Second.

6 CHAIRPERSON BROWN: It's been moved by Member  
7 Mulé, seconded by Member Peace.

8 Kristen, can you call the roll?

9 EXECUTIVE ASSISTANT GARNER: Mulé?

10 BOARD MEMBER MULÉ: Aye.

11 EXECUTIVE ASSISTANT GARNER: Peace?

12 BOARD MEMBER PEACE: Aye.

13 EXECUTIVE ASSISTANT GARNER: Petersen?

14 BOARD MEMBER PETERSEN: Aye.

15 EXECUTIVE ASSISTANT GARNER: Brown?

16 CHAIRPERSON BROWN: Aye.

17 Item 2.

18 CLEANUP CLOSURE AND FINANCIAL ASSURANCE DIVISION

19 CHIEF ORR: Agenda item 2 requests that the Board consider  
20 and approve the contractor for laboratory services, which  
21 is in parallel to Item 1, for the enforcement of state  
22 minimum standards at solid waste disposal sites and  
23 facilities.

24 And staff recommends that the Board approve  
25 Option 1 with Excel Chem Environmental laboratories as the

1 proposed contractor and adopt Resolution 2008-73.

2 CHAIRPERSON BROWN: Any questions?

3 BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
4 the Resolution.

5 BOARD MEMBER PEACE: Second.

6 CHAIRPERSON BROWN: It's been moved by Member  
7 Mulé and seconded by Member Peace.

8 Without objection, Kristen, can you substitute  
9 the previous roll?

10 Move next to item 3.

11 CLEANUP CLOSURE AND FINANCIAL ASSURANCE DIVISION

12 CHIEF ORR: Item 3 presents the staff recommendations to  
13 award grants for fiscal year 2007-2008 for the Local  
14 Government Waste Tire Cleanup and Amnesty Event Grant  
15 Programs.

16 Forty-four applications were received by the  
17 application deadline, and all of them were reviewed and  
18 recommended for funding.

19 Staff recommends Option 1, approving the proposed  
20 grant awards and the adoption of Resolution Number  
21 2008-74.

22 CHAIRPERSON BROWN: Thank you.

23 Any questions?

24 BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
25 the resolution.

1 BOARD MEMBER PEACE: Second.

2 CHAIRPERSON BROWN: It's been moved by Member  
3 Mulé, seconded by Member Peace.

4 Without objection, we'll substitute the previous  
5 roll.

6 And move next to item 13. Howard.

7 PROGRAM DIRECTOR LEVENSON: Thank you, Madam  
8 Chair. I'm Howard Levenson with the Sustainability  
9 Program. And I have twelve fiscal items to present, so  
10 I'll make them short and sweet.

11 Item 13 is consideration of a RMDZ loan for  
12 America Go Green Recycling to handle agricultural film  
13 plastics and other film items.

14 Staff recommends that the Board adopt Resolution  
15 Number 2008-80.

16 CHAIRPERSON BROWN: Any questions?

17 BOARD MEMBER PETERSEN: I'd like to move the  
18 motion.

19 BOARD MEMBER MULÉ: Second.

20 CHAIRPERSON BROWN: It's been moved by Member  
21 Petersen, seconded by Member Mulé. Without objection  
22 we'll substitute the previous roll.

23 PROGRAM DIRECTOR LEVENSON: Items 14, 15, and 16  
24 involve the various RAC grant programs. As we talked  
25 about in Committee, we had a very healthy set of

1 applications this month and have a few more next month.

2 So we're close to fully subscribing all or close to those.

3 Item 14 is the Targeted RAC Incentive Grant

4 Program. We're recommending seven grantees, and we

5 recommend that you adopt Resolution 2008-77 revised.

6 CHAIRPERSON BROWN: Any questions?

7 BOARD MEMBER PETERSEN: So moved.

8 BOARD MEMBER MULÉ: Second.

9 CHAIRPERSON BROWN: Moved by Member Petersen,  
10 seconded my Member Mulé. Without objection, we'll  
11 substitute the previous roll.

12 PROGRAM DIRECTOR LEVENSON: Item 15 is our RAC  
13 Use Grants. We have six applicants. And we recommend  
14 that you adopt Resolution 2008-78.

15 BOARD MEMBER PETERSEN: So moved.

16 BOARD MEMBER MULÉ: Second.

17 CHAIRPERSON BROWN: Been moved and seconded.  
18 We'll substitute the previous roll.

19 Number 16.

20 PROGRAM DIRECTOR LEVENSON: Number 16 is our RAC  
21 Chip Seal Grants. The first time we've offered this, and  
22 we have 13 applicants that we're recommending. We  
23 recommend that you adopt Resolution 2008-79.

24 BOARD MEMBER PETERSEN: So moved.

25 BOARD MEMBER MULÉ: Second.

1 CHAIRPERSON BROWN: It's been moved and seconded.

2 Substitute the previous roll.

3 Seventeen.

4 PROGRAM DIRECTOR LEVENSON: Item 17 is the grant

5 awards for our Used Oil Opportunity Grants and our

6 Nonprofit Grants.

7 We're recommending eight Opportunity Grants and

8 two Nonprofit Grants. We have two resolutions for this

9 item. We recommend that you adopt Resolution Numbers

10 2008-83 and 2008-92.

11 CHAIRPERSON BROWN: Any questions?

12 BOARD MEMBER PETERSEN: So moved.

13 BOARD MEMBER MULÉ: Second.

14 CHAIRPERSON BROWN: It's been moved and seconded.

15 Without objection, we'll substitute the previous roll for

16 both resolutions.

17 Number 18.

18 PROGRAM DIRECTOR LEVENSON: Item 18 concerns our

19 conference contract with Sacramento State. We recommend

20 that you adopt Resolution 2008-69 and the award of this

21 contract to Sacramento State University.

22 CHAIRPERSON BROWN: Very cool.

23 BOARD MEMBER PETERSEN: So moved.

24 BOARD MEMBER MULÉ: Second.

25 CHAIRPERSON BROWN: It's been moved, seconded

1 and. We will substitute the previous roll without  
2 objection.

3 Number 19.

4 PROGRAM DIRECTOR LEVENSON: This item concerns  
5 our contractor for the base line infrastructure inventory  
6 contract, very innovative and far reaching contract. We  
7 recommend that you adopt Resolution 2008-85 and award the  
8 contract to R.W. Beck.

9 BOARD MEMBER PETERSEN: So moved.

10 BOARD MEMBER MULÉ: Second.

11 CHAIRPERSON BROWN: It's been moved and seconded.  
12 And without objection, we'll substitute the previous roll.

13 Item 20.

14 PROGRAM DIRECTOR LEVENSON: Item 20 is contractor  
15 for our research and demonstration project on bioenergy  
16 and biofuels. This is an innovative project that will be  
17 happening up in Woodland and be accessible to the public.

18 We recommend that you adopt Resolution 2008-84  
19 and award the contract to the Regency University of  
20 California.

21 BOARD MEMBER PEACE: It does say revised.

22 BOARD MEMBER PETERSEN: Very exciting project.  
23 So moved.

24 BOARD MEMBER MULÉ: Second.

25 CHAIRPERSON BROWN: It's been moved and seconded.

1           Without objection, we'll substitute the previous  
2 roll.

3           PROGRAM DIRECTOR LEVENSON: Item 21 is the  
4 contractor for our Tire-Derived Business Assistance  
5 Program. We recommend that you adopt Resolution 2008-70  
6 and award the contract to Manex.

7           CHAIRPERSON BROWN: Any questions?

8           BOARD MEMBER PETERSEN: So moved.

9           BOARD MEMBER MULÉ: Second.

10          CHAIRPERSON BROWN: It's been moved and seconded.  
11 And we without objection we'll substitute the previous  
12 roll. Move to Item 23.

13          PROGRAM DIRECTOR LEVENSON: Item 23 is the  
14 contractor for the Southern California RAC Tech Center.  
15 We recommend that you adopt Resolution 2008-86.

16          CHAIRPERSON BROWN: Questions?

17          BOARD MEMBER PETERSEN: So moved.

18          BOARD MEMBER MULÉ: Second.

19          CHAIRPERSON BROWN: It's been moved and seconded.

20          Without objection, we'll substitute the previous  
21 roll.

22          Move to Item 24.

23          PROGRAM DIRECTOR LEVENSON: Item 24 is the  
24 contractor for the terminal blends chip seal demonstration  
25 project which will be Los Angeles County. Staff



1 recommends that you adopt Resolution 2008-88.

2 CHAIRPERSON BROWN: Questions?

3 BOARD MEMBER PETERSEN: So moved.

4 CHAIRPERSON BROWN: Cheryl has a question.

5 BOARD MEMBER PEACE: I still have some questions  
6 on this one.

7 I still think \$400,000 is an awful lot of money  
8 to be spending on this project. I know staff and Dr. Hex  
9 made a good case for the demonstration project in  
10 Committee. But if we do spend \$400,000 on a demonstration  
11 project, we should get results that will mean something.  
12 Because the item says results that can be used by  
13 Caltrans, local governments, and industry on how the  
14 performance of terminal blend chip seals compare to  
15 conventional asphalt rubber chip seals. Conventional chip  
16 seals last three to five years and asphalt even longer.

17 So I guess the legal term of the contract when it  
18 won't really allow us to do any longer term monitoring  
19 than what's in here, the seven to ten months worth of  
20 monitoring. I'm just concerned we're not going to get  
21 good results on this.

22 I know you did mention something about the  
23 Southern California RAC Tech Center doing monitoring. So  
24 I want to make sure how are we going to handle that.  
25 Because if we're spending \$400,000, we want to make sure

1 we're getting something that means something in the end.

2 PROGRAM DIRECTOR LEVENSON: Member Peace, I think  
3 that's an excellent question. We can certainly work  
4 beyond the term of the contract which as you say is really  
5 only good for another couple of years at this point. And  
6 then we can work with our other contractors and staff to  
7 look at the project over time and ensure or at least  
8 monitor what its performance is. So would be happy to do  
9 that.

10 CHAIRPERSON BROWN: Okay.

11 BOARD MEMBER PEACE: I want to make sure we do do  
12 some long term monitoring.

13 CHAIRPERSON BROWN: Okay. Any other questions?

14 BOARD MEMBER PETERSEN: I did so move.

15 BOARD MEMBER MULÉ: Second.

16 CHAIRPERSON BROWN: Resolution 2008-88 has been  
17 moved by Member Petersen and seconded by Member Mulé.

18 Without objection, we'll substitute the previous  
19 roll.

20 And Agenda Item 25.

21 PROGRAM DIRECTOR LEVENSON: Last of our fiscal  
22 consent items is contractor for the evaluation of terminal  
23 blend and warm mix asphalt technology applications. We're  
24 recommending award of the contract to California State  
25 University Chico and that the Board adopt Resolution

1 2008-87.

2 CHAIRPERSON BROWN: Any questions?

3 BOARD MEMBER PETERSEN: So moved.

4 BOARD MEMBER MULÉ: Second.

5 CHAIRPERSON BROWN: It's been moved by Member

6 Petersen, seconded by Member Mulé.

7 Without objection, we'll substitute the previous

8 roll. Thank you, Howard and Bill.

9 Next we will go to Item 6, which is Lorraine.

10 Are you going to do a presentation on Item 6, or Trevor?

11 ACTING DEPUTY DIRECTOR VAN KEKERIX: I will

12 introduce it and Trevor and I will be handling the item.

13 Good morning, Board members and Madam Chair. My

14 name is Lorraine Van Kekerix. I'm the Chief of the

15 Compliance Evaluation and Enforcement Division.

16 And Item 6 is public hearing and request for

17 rulemaking direction to provide an additional 15-day

18 comment period for revisions to regulations on statewide

19 recordkeeping and reporting requirements for the at-store

20 recycling plastic carry-out bag program.

21 And we already conducted the public hearing

22 portion. This is one of those unique situations where we

23 are coming back to the whole Board on a request for

24 direction. Because we had the hearing at the strategic

25 Policy Committee meeting, staff did not have time to

1 prepare revisions to those regulations and present them on  
2 the same day as the hearing. So we are back and we have  
3 some additional information for you and some proposed  
4 revisions.

5 SUPERVISOR O'SHAUGHNESSEY: Good morning, Madam  
6 Chair, members of the Board. My name is Trevor  
7 O'Shaughnessy of the Minimum Content Compliance Section.

8 Staff requests to revise the proposed at-store  
9 recycling program regulations and send them out for an  
10 additional 15-day comment period. Those regulations need  
11 to be amended to address an inconsistency between the  
12 recordkeeping and reporting requirements outlined in the  
13 regulations. The proposed language addresses this issue  
14 so that we can collect accurate information.

15 With regards to the draft regulations, staff has  
16 prepared Attachment 2, which was handed out earlier, of  
17 this item. Attachment 2 includes staff's amended language  
18 to the proposed regulations. Specifically, staff has  
19 amended language in two sections.

20 The first is found on page three, Section 17987.3  
21 of the recordkeeping requirement subsection A 1 and 2.

22 The secondary amendment is found on page 5 of  
23 Attachment 2 in Section 17987.4 filing of an annual report  
24 and subsection E 8 and 9.

25 If you would like additional information

1 regarding the at-store program, I'm available to go into  
2 additional details. Otherwise, this concludes my  
3 presentation. At this point I would like to turn the  
4 presentation back over to Lorraine Van Kekerix to overview  
5 the comments that were received.

6           ACTING DEPUTY DIRECTOR VAN KEKERIX: You just  
7 received a copy of the summary and responses to comments  
8 on the regs that we got either via e-mail or the letters  
9 that we received from Heal the Bay on May 12th. I can  
10 give you an overall summary, or I can go through them  
11 point by point, whatever your pleasure is.

12           CHAIRPERSON BROWN: Why don't you do any overall  
13 summary. And then if anyone has a specific question, then  
14 we can ask it at that time.

15           ACTING DEPUTY DIRECTOR VAN KEKERIX: Okay. We  
16 got two comments from One Bag at a Time. One of the most  
17 significant of their comments regarded the fact that we  
18 did not have a definition of reusable bags in the regs.  
19 We're relying on statute so we don't need to revise the  
20 regs.

21           The Heal the Bay comments fell into a number of  
22 groups. They wanted more specificity on requiring  
23 potentially a manifest system directly weighing the bags.  
24 They were concerned about getting quarterly verification  
25 of commingled rates by each store owner. And for those,

1 our basic comment is that this goes beyond what statute  
2 requires. There is no specific method that's required by  
3 statute or that the bags be recycled separately rather  
4 than commingled. And we looked to develop a regulations  
5 package to get the necessary information in a way that was  
6 consistent with other regulations that are throughout the  
7 state either for beverage containers, jurisdictions, news  
8 print, the RPPC containers.

9           One of the other points that they had is they  
10 thought the Board should provide a timeline for  
11 calculating and publishing those statewide commingled rate  
12 and update the rate. We will be publishing the rate as  
13 soon as we get information from our contract. We had  
14 delays in the contracting process, so we're starting  
15 sampling this summer. And we hope to have a rate this  
16 fall.

17           In future years, the Board will need to determine  
18 whether you have contract funding available to do  
19 additional commingled rate studies.

20           And finally, one of their other comments was the  
21 biodegradable bags should be included. We did not include  
22 biodegradable bags because the plastic recyclers report to  
23 us that compostable and biodegradable bags are serious  
24 containments in the film plastic recycling stream. And  
25 that if we included those in with this, we could actually

1 decrease the amount of plastic carry-out bags that got  
2 recycled.

3 That's a summary of their comments. And based on  
4 our responses, we did not believe revisions to the  
5 regulations were necessary to address those.

6 CHAIRPERSON BROWN: Okay. Thank you, Lorraine.

7 Anybody have any questions or comments? Thank

8 BOARD MEMBER MULÉ: Thank you for providing this  
9 to us.

10 BOARD MEMBER PETERSEN: Thank you, Lorraine.

11 CHAIRPERSON BROWN: The only changes to the  
12 emergency regulations after the 45-day comment period are  
13 the two notes that, Trevor, you've given us? And those  
14 are in the copies that we have in front of us, right, on  
15 page 3 and 5?

16 SUPERVISOR O'SHAUGHNESSEY: That is absolutely  
17 correct. There is minor clarifications with punctuation  
18 and miscellaneous spaces. But those are the substantive  
19 changes in the direct language.

20 The handout that was provided that has Attachment  
21 2 is following the procedures of strike out and underline  
22 to denote every individual change. But those ones  
23 highlighted are the, if you will, significant word changes  
24 for the regulations for clarification.

25 CHAIRPERSON BROWN: Okay. Thank you. So other

1 than punctuation and spacing changes, there will be  
2 nothing other than what is before us, unless we come --  
3 you'll come back to us -- you will come back to us with  
4 anything other than a classified punctuation change? Just  
5 clarification.

6 ACTING DEPUTY DIRECTOR VAN KEKERIX: Right.  
7 We're looking for your direction to send out Attachment 2  
8 as the revisions to the regulations for the 15-day public  
9 comment period.

10 CHAIRPERSON BROWN: This is not Attachment 2.  
11 This is Attachment 3.

12 ACTING DEPUTY DIRECTOR VAN KEKERIX: Attachment 2  
13 was --

14 CHAIRPERSON BROWN: The draft that you submitted.  
15 I thought this was attachment --

16 SUPERVISOR O'SHAUNESSEY: Madam Chair, the one  
17 that you held up was the summary of the response to  
18 comments.

19 CHAIRPERSON BROWN: That's Attachment 3. It's  
20 not noted. I want to make sure as we go forward and we  
21 have for the record what all of the different things are.  
22 So the grid of the recently received comments will be  
23 Attachment 3.

24 SUPERVISOR O'SHAUGHNESSEY: That would be  
25 correct.



1 CHAIRPERSON BROWN: Attachment 2 are the changes  
2 to the emergency regulations being proposed by staff and  
3 determined by the vote. I just want to clarify if there's  
4 anything other than a punctuation change in these draft  
5 regulations going to the Office of Administrative Law,  
6 they will come back to us.

7 SUPERVISOR O'SHAUGHNESSEY: Absolutely.

8 ACTING DEPUTY DIRECTOR VAN KEKERIX: They won't  
9 be going to the Office of Administrative Law. They're  
10 going out to all the stakeholders for the 15-day comment  
11 period.

12 CHAIRPERSON BROWN: Okay. Right.

13 ACTING DEPUTY DIRECTOR VAN KEKERIX: So the Board  
14 will have a chance at the end of the 15 days to hear  
15 another item to adopt them.

16 CHAIRPERSON BROWN: Okay. We got it. Sorry.

17 Can I have a motion?

18 ACTING DEPUTY DIRECTOR VAN KEKERIX: We just need  
19 direction.

20 CHAIRPERSON BROWN: You just need direction.

21 Okay. So directed. Go forth and comment away.

22 Okay. We will move next to Item 7 then. Howard.

23 PROGRAM DIRECTOR LEVENSON: Thank you, Madam  
24 Chair.

25 This item is consideration of the report to the

1 Legislature regarding the Waste Tire Recycling Management  
2 Program. As you know, in March, we brought a draft report  
3 and received direction from the Board on how to revise it.  
4 And we subsequently did that for purposes of this month's  
5 item.

6 At the Committee meeting last week, we had some  
7 additional input and direction from the Committee  
8 regarding some revisions. And we worked with Member  
9 Peace's office as directed by the Committee to make those  
10 revisions.

11 And so you have a revised Attachment 1, which is  
12 the proposed report to the Legislature. And we are  
13 seeking your approval of that report and adoption of  
14 Resolution 2008-89.

15 We'd be happy to answer any specific questions.  
16 But I think there's been extensive discussion of this.  
17 And we tried to follow the directions and work with Member  
18 Peace's office on those specific directions.

19 CHAIRPERSON BROWN: Okay. Any questions?  
20 Changes? Comments?

21 BOARD MEMBER PEACE: Yes. I want to thank staff  
22 for. They've done a lot of work on this. But I do need  
23 to still mention some things that still bother me.

24 In the legislative analyst's report, they asked  
25 us on page 18 it says they wanted us to include cost and

1 effectiveness of the options. And I just want to point  
2 out there really isn't any effectiveness in the report.

3 Now I realize it's really hard to determine what  
4 the effectiveness can be, because there's many variables.  
5 But I just wanted to point that out. And if we want to  
6 add something in or we just want to just leave it out.  
7 But I wanted to mention there really isn't anything  
8 addressing effectiveness in the report. That's a really  
9 hard thing to do, but I wanted to point it out.

10 CHAIRPERSON BROWN: I'm not sure we can  
11 necessarily include anything regarding the effectiveness  
12 of the programs that we're actually putting forward,  
13 unless we say that the 2013 review of these programs will  
14 determine the effectiveness. In review and anticipation  
15 of the adjustment of the tire fee that sunsets in 2015.  
16 So in so far that, you know, we need to acknowledge they  
17 requested it, maybe just a phrase in that one sentence  
18 that says the effectiveness of these programs as part of  
19 the evaluation process in 2013 in anticipation of the  
20 sunset of this statute.

21 PROGRAM DIRECTOR LEVENSON: We can certainly add  
22 a phrase to that extent towards the end of the report when  
23 we're talking about the review.

24 We also have certainly the ability with Strategic  
25 Directive 6.4 we're looking at an increase towards 90

1 percent tire diversion. We can measure that. We have an  
2 annual survey and measurement in terms of the overall  
3 program effectiveness we can use. Brenda just pointed  
4 that out to me.

5 In terms of cost issues though, it's extremely  
6 difficult. There's such a range of factors involved in  
7 this use of any particular funding transportation issues  
8 and the cost of material, who else is involved, that we  
9 don't feel really comfortable coming up with any estimates  
10 that we can rely on.

11 CHAIRPERSON BROWN: I agree. I think it's hard  
12 to do a cost per tire diversion program what's more  
13 effective cost-wise than other things, especially when  
14 we're looking at a market-based approach to pull the tires  
15 and increase the diversion rate.

16 You know, the market really drives the cost of  
17 all of these programs. So I think that probably would be  
18 effective in addressing what Member Peace raised, which  
19 was performance and evaluation.

20 Any other questions?

21 BOARD MEMBER PEACE: The only other thing I had  
22 was at the very end where we talked about statutory  
23 changes, page 22, the very last sentence, just a minor  
24 thing, but it says the following are statutory changes  
25 that would assist the Board's effort. I just wonder if

1 maybe we should say these are statutory changes that could  
2 assist the Board's effort to further increase the tire  
3 diversion rate. But those are just minor things.

4 CHAIRPERSON BROWN: I think, you know, would,  
5 could, should, help. It's really -- you know, doesn't  
6 matter to me. So I don't have a problem changing it to  
7 would, could.

8 BOARD MEMBER PEACE: Just change it to "could  
9 assist the Board's effort to further increase the tire  
10 diversion rate," like further from what we already  
11 recommended.

12 PROGRAM DIRECTOR LEVENSON: So we have that one  
13 particular word change and a phrase to add towards the  
14 end, a few typos and --

15 CHAIRPERSON BROWN: Punctuation changes and --

16 PROGRAM DIRECTOR LEVENSON: We won't send that to  
17 AOL. We'll work with OPA. OPA has done a technical edit  
18 on the previous version. We didn't have time to run  
19 through the last version. We'll fine tune that.

20 CHAIRPERSON BROWN: Substance and policy wise, I  
21 think we're good where this is. I think style wise, we'll  
22 leave the style and adjustment and punctuation to ensure  
23 this is all punctuated properly, that we thoroughly go  
24 through and make sure there's no misspelled words or  
25 grammar problems.

1 BOARD MEMBER MULÉ: Madam Chair, I'd like to move  
2 Resolution 2008-89 with the changes recommended today.  
3 And just want to thank staff for all your hard work on  
4 this.

5 BOARD MEMBER PEACE: Second.

6 CHAIRPERSON BROWN: It's been moved by Member  
7 Mulé and seconded by Member Peace.

8 Kristen, can you call the roll?

9 EXECUTIVE ASSISTANT GARNER: Mulé?

10 BOARD MEMBER MULÉ: Aye.

11 EXECUTIVE ASSISTANT GARNER: Peace?

12 BOARD MEMBER PEACE: Aye.

13 EXECUTIVE ASSISTANT GARNER: Petersen?

14 BOARD MEMBER PETERSEN: Aye.

15 EXECUTIVE ASSISTANT GARNER: Brown?

16 CHAIRPERSON BROWN: Resolution passes.

17 And thank you. I echo Rosalie. Thank you staff  
18 very much for all your hard work on this report and Member  
19 Peace for submitting all the time and effort into --

20 PROGRAM DIRECTOR LEVENSON: There were a lot of  
21 staff who worked on this report, but I have to single out  
22 Sally French for all her leadership. She's on vacation.  
23 She got tired of this report.

24 CHAIRPERSON BROWN: She got tired of the report  
25 and retired to vacation.

1           Thank you, Sally.

2           We'll move next to Agenda Item 9, consideration  
3 of adjustments to the electronic waste recovery and  
4 recycling payment rates.

5           And I'll mention for anybody in the audience who  
6 arrived late, if you intend or would like to speak to this  
7 item, please fill out a speaker slip that's in the back of  
8 the room and bring it to Kristen. After a brief  
9 presentation, we will have time for public comment.

10           PROGRAM DIRECTOR LEVENSON: This will be very  
11 brief. We had extensive discussion of this item last week  
12 before the Strategic Policy Committee, which had all the  
13 Board members in attendance. And at that point in time,  
14 staff had made a recommendation that we change the rates  
15 and have I think effective immediately on July 1st.

16           Based on the discussion that you had with  
17 stakeholders and amongst yourselves, you provided  
18 direction that we implement or that we consider a phased  
19 implementation approach. And we have revised Attachment 4  
20 with the regulatory language and Attachment 5 of the  
21 resolution to reflect that discussion which focused on a  
22 phased implementation with September 1st as the target  
23 date.

24           So I don't think that at this point unless you  
25 have specific questions we're prepared to go through all

1 the data again. But I think really we're more ready to  
2 have discussion from stakeholders and receive your  
3 direction on this.

4 CHAIRPERSON BROWN: Okay. I don't have any  
5 questions regarding the presentation. I just want to say,  
6 Jeff, you've done an excellent job of preparing for this  
7 discussion, especially the first time around doing a  
8 thorough analysis, the DOF audit. You know, I just think  
9 that the way it was all laid out -- and we said this back  
10 I think in February, you know, in anticipation of this  
11 item. Very, very good work. Thank you very much for all  
12 your hard work.

13 I don't have any questions. Does anybody have  
14 any questions? We do have some comments. Go ahead.

15 BOARD MEMBER PEACE: I'm sorry.

16 PROGRAM DIRECTOR LEVENSON: I can sit closer to  
17 Jeff.

18 BOARD MEMBER PEACE: Did you say you're going  
19 with the September 1st date? Because I thought I heard  
20 like a September 15th. What are we considering today?

21 CHAIRPERSON BROWN: Explains the phased in  
22 approach that was presented.

23 BRANCH MANAGER HUNTS: At the Committee meeting,  
24 we presented an alternative implementation schedule that  
25 would allow for an interim combined payment rate period to



1 more equitably pay the recyclers for what they previously  
2 had paid to collectors.

3 Over the past week, I communicated with the Board  
4 some thoughts on the time frames for recyclers to submit  
5 payment claims that possibly would have pushed the end of  
6 the interim period to September 15th. What is contained  
7 in the resolution right now in the draft regulatory  
8 language reflects the discussion that we had at the  
9 Committee meeting, which was to begin implementation July  
10 1st. And in the interim period on September first or  
11 rather end it on August 31st and have September 1st be  
12 full revised rate implementation.

13 So I apologize for any confusion regarding that  
14 communication over the past week.

15 CHAIRPERSON BROWN: So it's September 1st, not  
16 September 15th.

17 BRANCH MANAGER HUNTS: September 1ST is what is  
18 contained in the Resolution before you and the proposed  
19 regulatory language.

20 CHAIRPERSON BROWN: So there's no problem then in  
21 the processing of paperwork for material and all of that  
22 that was alluded to?

23 BRANCH MANAGER HUNTS: The reason for the  
24 communication around September 15th is recyclers do have  
25 45 days from the end of a claim period or a claim month

1 within which to submit a payment claim. So conceivably  
2 material processed in July and properly recycled, the  
3 claim would not technically be due until September 15th  
4 which was the reason that I common indicated the  
5 possibility of having the end of the interim phase  
6 September 15th as opposed to September first.

7 CHAIRPERSON BROWN: And that's not needed any  
8 longer to allow for the --

9 BRANCH MANAGER HUNTS: It's, I believe, an option  
10 before the Board to direct us to revise the resolution and  
11 the regulatory language with that direction, adding 15  
12 days to that interim period. It would fit nicely with the  
13 calendar of submitting payment claims.

14 BOARD MEMBER PEACE: Well, that makes sense to  
15 me. If they have 45 days to pay it, we should push that  
16 out to September 15th to allow for the 45 days.

17 BOARD MEMBER PETERSEN: Is this helpful to you,  
18 the 15th or the 1st?

19 BRANCH MANAGER HUNTS: I think it would align a  
20 variety of dates that occur within the --

21 BOARD MEMBER PETERSEN: I love alignment.

22 CHAIRPERSON BROWN: Alignment makes it easy. I'm  
23 wondering why we're not asking for it. Is there a reason  
24 we're not just recommending that or that you're not  
25 recommending it or you're leaving it to our discretion?

1           PROGRAM DIRECTOR LEVENSON: It's certainly the  
2 Board's call. We had not thought about that 45 day  
3 alignment when we made the proposal last week regarding  
4 September 1st. It was subsequent to that that we  
5 reflected on that and thought it might be better.

6           So we certainly can make that recommendation. I  
7 think it does work better for us and --

8           BOARD MEMBER MULÉ: You are recommending that.  
9 Just say it. It's okay. If that's what you're  
10 recommending, you can say that. If that's your  
11 preference, then we can deliberate up here.

12          BRANCH MANAGER HUNTS: If we're going with a  
13 phased implementation for programs for recommendation  
14 would be to incorporate the 45 days.

15          BOARD MEMBER MULÉ: Okay. Got it. All right.  
16 Thank you. It's okay.

17          CHAIRPERSON BROWN: I don't want to beat a dead  
18 horse. You're saying material received up to the end of  
19 July needs 45 days, right, to process? Or anything  
20 received up to the end of July -- the rate changes July  
21 1st.

22          BRANCH MANAGER HUNTS: It doesn't have to do with  
23 when material is received. It has to do with when  
24 material is canceled. It's a concept we use within the  
25 program. And particular residuals are shipped to market

1 that triggers a calendar to kick in about when the payment  
2 claim needs to come to the Board when that payment  
3 claim --

4 CHAIRPERSON BROWN: So you're not going to have  
5 the same problem all the way down the road. What if you  
6 receive material August 31st and you need 45 days to  
7 process? Because it's in the interim between the two  
8 also.

9 BRANCH MANAGER HUNTS: The purpose of the  
10 proposed interim payment rate is to make whole the  
11 infrastructure, the recyclers who paid out for material  
12 June 30th or prior under the existing recovery payment  
13 scheme and who then will turn around and submit a payment  
14 claim to the State seeking reimbursement. We ran the  
15 possibility of that reimbursement and not fully  
16 compensating the recycler.

17 CHAIRPERSON BROWN: Okay. Got it. Sorry. Okay.

18 We do have a couple of speakers. So we'll move  
19 to those. Sorry, Jeff. First speaker is Bill McGeever  
20 from ASL Recycling.

21 MR. MCGEEVER: Good morning, Madam Chair, members  
22 of the Board. Bill McGeever with ASL Recycling. We're an  
23 authorized recycler in the State program. Have been since  
24 inception of the program '05. Currently employ 100  
25 employees at two plants, northern California and southern

1 California.

2 We've heard a lot of arm waving in the last few  
3 weeks about the proposed change to the payment plans, and  
4 we wanted to add some quantifiable comments to that line.

5 Our standard costs were reviewed by the auditor  
6 the State supplied. So we don't think there's anything  
7 materially wrong with the net costs that are being used to  
8 make this decision.

9 What we do know about statistics is they look  
10 back, not forward. We think this decision can be less  
11 impactful to a young industry, three years old. There are  
12 numerous wrinkles in the future for those of us that  
13 recycle, and they will change the net costs. Probably not  
14 in a way that will make this decision look good to the  
15 recyclers.

16 And we're curious frankly if the Board is going  
17 to respond promptly to changes in our net costs that occur  
18 in the marketplace. Some examples would be glass  
19 disposal. Five other states are coming on line with  
20 legislation. This state generated two million pounds of  
21 CRT glass in 2004, and we generated 90 or 100 million  
22 pounds of CRT glass last year. All those other states  
23 with their populations are going to stress the glass  
24 disposal process. The Doe Run led the led recycling  
25 process. Is five cents a pound more expensive than glass

1 to glass recycling than we currently use. When we're  
2 forced by the end of CRT manufacturing to convert to led  
3 to led, our net costs at the net cost level are going to  
4 rise to five cents.

5 My question -- and it's a rhetorical question and  
6 we don't expect an answer today -- is will the Board be  
7 there to elevate the payment rate to cover those  
8 increasing net costs. Glass is only one of them. You're  
9 all familiar with the fuel costs. A load of glass going  
10 to Doe Run in 2006 today is two-and-a-half cents a pound  
11 more expensive just based on fuel prices. Now, the 2007  
12 net cost reports don't comprehend that, because this fuel  
13 run-up started in January for the most part.

14 As a recycler, labor is our number one expense.  
15 And I think you all know, you all have budgetary  
16 responsibilities of your own, that labor costs is  
17 generally don't go down. If your head count increases,  
18 your average hourly wage is going to increase too. This  
19 is not a simple business. It is labor intensive and  
20 efficiency is critical.

21 We think it's interesting that our net costs were  
22 considered to be high. And from the representative sample  
23 were actually isolated from the data in the representative  
24 sample. So the decisions being made are today being  
25 contemplated today is even worse for our company than it

1 is for the people who fell into the average or the mean.

2 That's all I have today. I appreciate the  
3 opportunity to speak.

4 CHAIRPERSON BROWN: Thank you, Mr. McGeever.

5 Do we have any questions for the speaker?

6 Thank you very much for being here. We  
7 appreciate your comments.

8 Chuck White.

9 MR. WHITE: Thank you, Madam Chair, members of  
10 the Board. Chuck White with Waste Management.

11 I sorry I wasn't here to participate in last  
12 week's Committee meeting. I used to be worried about  
13 having two meetings on the same day. And lately I've been  
14 worried about having four and five now that we have the  
15 Air Resources Board and greenhouse gas and everything else  
16 going on.

17 I wish I could be here to try to convince you to  
18 leave the fee payment alone and leave it where it is. I  
19 don't think that's going to fly.

20 But for better or worse, the revenues derived  
21 from the collection and processing these payment, you  
22 know, is used to help the overall recycling of e-waste.  
23 Not just covered electronic waste, but helps to provide a  
24 secure base for all types of electronic waste materials,  
25 at least 50 percent of which is not covered electronic

1 waste.

2           The simple economics of reducing these payments  
3 is going to result in reduced collection and we believe  
4 reduced on-shore processing of these materials and will  
5 likely push more materials to off-shore or out of the  
6 North America processing.

7           One of the problems with the net cost report that  
8 we have seen is its inability to fully incorporate the  
9 downstream due diligence and environmental auditing that  
10 has to be done to make sure that anybody receiving these  
11 electronic wastes is doing it in accordance with the  
12 highest environmental standards and highest human health  
13 standards. And we're concerned that the net cost report  
14 really doesn't cover and include the costs that waste  
15 management and our contractors do to make sure we're not  
16 sending any of these materials overseas for inappropriate  
17 processing. And we think that cost can be as high as two  
18 cents per pound.

19           One of the other problems since we know this has  
20 been generally discussed for the last few months that  
21 there is a need to put the fund in balance. And I  
22 understand your fiduciary responsibility to do so. And  
23 it's a tough decision you've got. The increase the  
24 revenues or decrease the payments in order to keep the  
25 fund solvent. And we totally understand the problem



1 you're in.

2 My problem is I haven't had a chance to pull  
3 together all of our net cost reports from the waste  
4 management operations alone within Waste Management and  
5 put them in a stack or hire a contractor to do so. So I'm  
6 not in a position to really even know whether or not what  
7 our net cost reports look like. And frankly I wish I had  
8 a little more time to be able to pull this all together.

9 CHAIRPERSON BROWN: Chuck, weren't they submitted  
10 as part of recyclers? They're all submitted so they're  
11 part of this analysis.

12 MR. WHITE: I know.

13 CHAIRPERSON BROWN: You want to do a further  
14 analysis?

15 MR. WHITE: I haven't had a chance personally or  
16 Waste Management hasn't had a chance to take a look.  
17 They're all submitted by individual districts all over the  
18 state. We don't have any centralized system set up to do  
19 it.

20 CHAIRPERSON BROWN: I just want to make sure --

21 MR. WHITE: We haven't had a chance to take a  
22 second look even at our own net cost report. You can  
23 blame us for that. I'll bow down.

24 CHAIRPERSON BROWN: I'm not taking responsibility  
25 for that. So clearly it's going to fall to you.

1           MR. White: I'm not asking you to. And the  
2 manufacturers are likely going to be hit with an increase  
3 sometime probably around January. And they've had plenty  
4 of time to realize this is coming.

5           I wish we were having a little bit more time  
6 ourselves to factor in this decrease and have it spread  
7 out over time. I know you've been talking about it since  
8 the meeting last week to have more of a phased in or  
9 staggered in approach.

10           One thought that we had is that this would be a  
11 huge step down from 20 cent to 16 cents. And it will have  
12 huge consequences because you won't be able to re-visit  
13 again for two years. And we were wondering if it would be  
14 possible to consider a more phased in period of time of  
15 stepping down, say, to 20 cents for collectors, 20 to 19  
16 cents in January to 18 cents next July to 17 cents the  
17 following January on down to be able to reduce the huge  
18 impact this is going to have. And similarly reduce the  
19 recycling fee down two cents in increments over the  
20 two-year period we've come up for review by the Board.  
21 This would only be an increased expense to the fund of  
22 about ten percent over what it would be under the staff  
23 proposal the way we calculate it.

24           CHAIRPERSON BROWN: Have you calculated how much  
25 that cost of ten percent is to the fund and to the loan?

1           MR. WHITE: We understand you're going to have to  
2 do some movement of moneys around to cover it, and you're  
3 going to have to increase the revenues into the fund from  
4 the fees on manufacturers or retailers depending on how  
5 the legislation turns out.

6           CHAIRPERSON BROWN: We're going to pass this on  
7 to the rate payer and consumer then, higher fees, in order  
8 to phase this in?

9           MR. WHITE: Yes.

10          CHAIRPERSON BROWN: To the tune -- have you  
11 calculated what you understand it to be?

12          MR. WHITE: I don't have the exact number. We  
13 believe about ten percent increase over what the cost  
14 would be. Be increased cost over what the staff is  
15 proposing.

16          CHAIRPERSON BROWN: Millions of dollars.

17          MR. WHITE: We don't think that's unreasonable  
18 given the scope and the impact this could potentially have  
19 on the collection and recycling of these materials here in  
20 the United States, in California particularly.

21               We understand you have a tough position. You're  
22 balancing the fiscal responsibility. You have the  
23 revenues on one hand and the out pay. And if they're  
24 crossing each other and creating a deficit, that has to be  
25 addressed. But we're also concerned about the impact this

1 is going to have on the recovery of these materials.

2 So we urge you to take very close look at this.

3 Try to extend the reduction amount over time as far as

4 possible and as little increments as possible as you can

5 to have reduced the immediate impact on these programs in

6 California, both collection and recycling. And I

7 appreciate the opportunity to get up and address this

8 matter to you. And I look forward to your decision.

9 Thank you.

10 CHAIRPERSON BROWN: Anybody have any questions  
11 for Chuck White?

12 Next speaker, Mark Murray.

13 MR. MURRAY: Madam Chair, members, Mark Murray  
14 with the environmental group Californians Against Waste.

15 Thanks for the time and thoughtfulness that  
16 you've put into this proposal. And do appreciate the  
17 somewhat modification in terms of the staff alternative.

18 However, would still be asking you to consider a  
19 postponement of the implementation. Taking the phased-in  
20 alternative, which is really just a mechanism for making  
21 sure we're not paying too little on stuff that was  
22 collected before July 1st -- take that whole system and  
23 shift it back three months. So move this proposal back  
24 one quarter to provide greater notice and communication to  
25 the collectors and the recyclers so it makes it easier for

1 them to swallow. Folks are planning collection and  
2 recycling programs right now.

3 I would have thought everyone would have been  
4 aware of this discussion that we've been having for the  
5 last couple of months. But already this week I think I  
6 have been copied on e-mails that have gone to you. And  
7 there were folks that weren't aware of this given the fact  
8 it is late May now, talking about July 1st implementation.  
9 We're still talking about stuff that will be collected on  
10 and after July 1st having being paid at a substantially  
11 different rate.

12 I do also appreciate the comments from the  
13 representative from ASL in that, you know, maybe two years  
14 from now I may be coming to you because costs have changed  
15 and saying we need to implement this cost change right  
16 away because costs are going up. So I appreciate that  
17 this could go both ways.

18 But I think that given the substantial reduction  
19 in this costs that we're seeing that it would be  
20 appropriate to provide collectors and recyclers with a  
21 larger notice. And we're asking for a three month  
22 extension which will cost \$2.5 million. Anything you do  
23 at this point is arbitrary in terms of the date you pick.

24 I certainly will note that this issue will impact  
25 just the situation. We will make sure in this next

1 payment setting round for the retailer manufacturer fee  
2 that we're going to make sure that we have enough money to  
3 cover every foreseeable situation and not get ourselves in  
4 the situation where we have to then borrow the money  
5 again. So next time we need to err on the side of  
6 generating more money at the front end.

7 So, again, I appreciate your time. Asking for a  
8 three-month extension of the whole Jeff plan. Thanks a  
9 lot.

10 CHAIRPERSON BROWN: Thanks, Mark.

11 Next speaker is Dennis Kazarian.

12 MR. KAZARIAN: Thank you.

13 I disagree with all that. We've had plenty of  
14 time. We know what's coming down the pike. We've clearly  
15 understood. If you're in this business, you know where  
16 we're going. You knew the dates. And you know what's  
17 happening.

18 Raising money on the one end has nothing to do  
19 with the money we spent. The money we spent, we may have  
20 over spent. We may have put too much money out there.  
21 And I think we could give you other formulas on how that  
22 money has been spent, and we wouldn't be short today. Has  
23 nothing to do with the money we raised versus the money we  
24 spent. They don't correlate. Two different roads. We  
25 can argue that all day.

1           I'm intrigued that collectors want to ratchet it  
2 down over a period of time. I'd be willing to go along  
3 with that plan if they're going to take what's given to  
4 them. But I don't know of any collector anywhere taking  
5 the number that the collectors get. They're not taking 20  
6 now and they're not going to take 16 later. So ratcheting  
7 it down or doing whatever they want to do with it is  
8 beyond me. They're getting what they get. They get what  
9 they can get, and they're taking it out of the recycler.  
10 We're the ones who are upset. We're the ones doing the  
11 work. We're the ones who have that set bill.

12           You know, if in fact this is going to stay at 16  
13 and 23, we got a program. We'll take it and we'll go  
14 forward. But that's not the case.

15           And I think that collectors ought to be able to  
16 make and have to prove to that fact that what they're  
17 getting from the recycler is in fact based on cost and not  
18 based on anything else. And they couldn't do it. So  
19 whether it gets ratcheted in, it ought to just happen when  
20 it's going to happen and how it's going to happen. And I  
21 support that plan.

22           Our argument would be we would like to get the  
23 money that is supposed to come to us, period. I don't  
24 care what the collector gets. I don't care if he gets 50  
25 cents a pound. If that's what's in the program and you

1 deem that, that's what he should get. I would like to get  
2 what's deemed to me as a recycler and as would ASL and  
3 everybody else.

4 But that isn't the program because as we go back,  
5 it's Dennis dollars. And that's the way the world works  
6 right now based on what we have.

7 So my position is we're going to move it now.  
8 We're going to move it to July. We're going to move it  
9 whatever. Let's go where we're at, because it's where it  
10 is and it is what it is. And we're going to do it and  
11 implement it and make it happen. Thank you.

12 CHAIRPERSON BROWN: Thank you, Dennis. Before I  
13 open it to Board members, Jeff, would you like to share  
14 with us the extensive outreach that you've been doing over  
15 the course of the last several months with the regulated  
16 community of recyclers and collectors to notify them that  
17 our statutory obligation to review this program and the  
18 payment program is upcoming. Just a brief overview of  
19 your extensive outreach.

20 BRANCH MANAGER HUNTS: We can start with the  
21 Electronic Waste Recycling Act of 2003 that's been on the  
22 books since fall of that year. That had this date in  
23 writing for everybody to see that the Board would have the  
24 obligation to re-visit and re-set payment rates. And what  
25 those payment rates would be re-set to is guided by the



1 statute.

2           We've had workshops regularly. We have every  
3 year come to the Board with the data that we received  
4 that's been showing a downward trend. Two years ago when  
5 the Board had its first opportunity to re-set the payment  
6 rates --

7           CHAIRPERSON BROWN: I'm not talking about your  
8 outreach to us. I'm talking about notifying the  
9 collectors that this date has been upon us and that the  
10 reason they submit net cost reports is so you can do an  
11 analysis so that this determination can be made. I mean,  
12 the collectors all received letters. The recyclers all  
13 received notice.

14           BRANCH MANAGER HUNTS: They received notice.  
15 They received list serve if they're signed up for that.  
16 Every year when they report -- the net cost report is  
17 another reminder to them because that cost report says  
18 this information will be used to re-set the payment rates.

19           CHAIRPERSON BROWN: Okay.

20           DIVISION CHIEF WILLD-WAGNER: We also had a  
21 workshop in February that was specifically noticed to be  
22 discussing those issues.

23           CHAIRPERSON BROWN: The rate adjustment issues.

24           DIVISION CHIEF WILLD-WAGNER: Correct.

25           CHAIRPERSON BROWN: So they chose not to either

1 participate for understand the program they were

2 participating in until this week if we heard from --

3           BRANCH MANAGER HUNTS: I think denial is the  
4 clinical term.

5           CHAIRPERSON BROWN: Well, you know, I don't want  
6 to re-visit completely what we did last Tuesday because we  
7 had an extensive discussion. And I think I probably said  
8 enough last Tuesday to last me for the rest of the year.

9           But I do want to reiterate the foundation of this  
10 program from my personal perspective. This is not a Board  
11 perspective. But I think we need to go back and re-say  
12 these programs and the adjustment to this fee has nothing  
13 to do with the condition of the fund balance. The fee and  
14 the adjustment that's made to the recovery fee is based in  
15 statute.

16           And it's required by this Board to review this  
17 payment program under specified -- it's all specified and  
18 laid out how we come up with a net cost average for  
19 determination of a payment plan. So this is not something  
20 the Board has arbitrarily come up with on how we're going  
21 to do this. It's been very well thought out. The initial  
22 presentation on all the net cost analysis was done in  
23 February, if I recall, where we actually had this initial  
24 discussion. So we've had a lot of time as a Board to  
25 digest this information and to come up with, you know,

1 what we think is an appropriate adjustment to the fee.

2 Statute requires and directs fiduciary

3 responsibility on the part of the Board to make sure that

4 this fund is solvent. That's a completely separate

5 decision that will come up as we look at fees. But

6 personally to extend this program when we know that it is

7 beyond and that it's a heavily subsidized program. It's

8 been extremely successful. It is the most successful

9 program in the entire country because of the way it was

10 set up. We are recycling enormous amounts of e-waste.

11 But I do also need to point out that the law only

12 allows for the collection and reimbursement of covered

13 electronics. And those people who want to absorb costs

14 for others should work with Mark Murray who has been

15 trying to expand the statute in order for further

16 inclusion of electronics that should be kept out of the

17 landfill. But right now this law only allows us the

18 average net cost analysis for covered electronic devices.

19 As much as we want the expansion and look to companies to

20 applaud their efforts for being environmentally conscious,

21 we can only do what the law allows us to do.

22 So, you know, I understand it's a fragile

23 business. It's in three-year infancy. But we have been

24 subsidizing the program. And we need to look at our

25 fiduciary responsibility here. And we are borrowing money

1 to keep this program solvent. And the longer we delay the  
2 payments, the more we ignore our responsibility to this  
3 program and to other programs that we are given  
4 responsibility for overseeing.

5 So anyway, that's well beyond what I should  
6 probably have said. But I will allow any other Board  
7 members that have questions for our staff for anyone in  
8 the audience.

9 BOARD MEMBER PETERSEN: Madam Chair, I agree with  
10 everything you just said.

11 More importantly, the idea of helping Mark  
12 expanding this program to where it should be so we're not  
13 absorbing the costs of these other electronic wastes is  
14 something that's got to be done. So I'm all for that.  
15 But I have to tell you -- and you said it all. This has  
16 to be done and we're going to do that. We're going to  
17 support the staff today. So at least I am. Thanks.

18 BOARD MEMBER MULÉ: Madam Chair, thank you very  
19 much.

20 I just want to concur with what you and Board  
21 Member Petersen just expressed. I think last week I  
22 mentioned some of the same things that we as a Board have  
23 a fiduciary responsibility to look at these rates. I did  
24 some research like I always do and, you know, pulled out  
25 the PRC Code here where it does say, you know, on July 1,

1 2004, or as specified otherwise in Section 25214.10.1 of  
2 the Health and Safety Code and on July 1 every two years  
3 thereafter the Board in collaboration with the department  
4 shall establish an electronic waste recovery payment  
5 schedule for covered electronic waste generated in the  
6 state to cover the net cost for an authorized collector to  
7 operate a free and convenient system for collecting,  
8 consolidating, and transporting covered electronic wastes  
9 generated in the state.

10 Furthermore, we had the net cost reports. We  
11 hired a contractor to review the 2006 net cost reports.  
12 That was Humboldt State University. I reviewed that  
13 report. We furthermore had the Department of Finance do a  
14 verification of the net cost reports. So I think that  
15 we've done our due diligence in terms of looking at what  
16 those costs are to the best of our ability. And again, I  
17 think that the proposal that staff has before us is  
18 appropriate and I'm ready to support it.

19 This program was not and is not designed to cover  
20 non-covered electronic wastes. We all know that this  
21 payment right now is subsidizing some of those non-covered  
22 items. And again, I would like to again concur with the  
23 Board Chair. And let's work together with all these  
24 stakeholders, especially with Mark, and try to get this  
25 program expanded to cover additional items.

1           So with that, I'm ready to support staff's  
2 recommendation. Thank you.

3           CHAIRPERSON BROWN: Cheryl.

4           BOARD MEMBER PEACE: I just want to say I believe  
5 that the statute -- it does say the adjustment in the  
6 payment rate will be guided by the net cost report. I do  
7 think the statute does give us latitude to consider such  
8 things as increased business costs in setting that  
9 recycling payment.

10          I know we need to balance and keep the program  
11 solvent with the need to keep it successful, free, and  
12 convenient. And I guess from what I've heard the last few  
13 weeks and the extensive work that staff has done on this,  
14 I also believe that I have to follow the recommendation.

15          CHAIRPERSON BROWN: And there is an adjustment in  
16 there. There is a ten percent adjustment above the net  
17 cost average that has been included.

18          BOARD MEMBER PEACE: And we did put that in  
19 there. It was guided. And we did put that in there.

20          CHAIRPERSON BROWN: Thank you for pointing that  
21 out. I think that's an important point that needed to be  
22 added.

23          BOARD MEMBER MULÉ: And I agree with that. But  
24 by the same token, that's why the law is the written the  
25 way it is. Then we look at the rates two years from now.

1 And market conditions will change as they always do. And  
2 we'll re-evaluate it again in two years.

3 CHAIRPERSON BROWN: Okay.

4 BOARD MEMBER PETERSEN: I'd like to move  
5 Resolution 2008-82 revised. We're going to go with the  
6 September 15th date; right?

7 CHAIRPERSON BROWN: Yes. So that would be  
8 revision four. That is not yet out. But we'd like to  
9 move Resolution 2008-82 with the revisions of September  
10 15th to align with reporting requirements. So that will  
11 be a revision number four of this resolution that's before  
12 us.

13 BOARD MEMBER MULÉ: Second.

14 CHAIRPERSON BROWN: It's been moved by Member  
15 Petersen and seconded by member Mulé.

16 Kristen, can you call the roll?

17 EXECUTIVE ASSISTANT GARNER: Mulé?

18 BOARD MEMBER MULÉ: Aye.

19 EXECUTIVE ASSISTANT GARNER: Peace?

20 BOARD MEMBER PEACE: Aye.

21 EXECUTIVE ASSISTANT GARNER: Petersen?

22 BOARD MEMBER PETERSEN: Aye.

23 EXECUTIVE ASSISTANT GARNER: Brown?

24 CHAIRPERSON BROWN: Aye.

25 Thank you all. The resolution passes. Thank

1 you. Those of you who testified for being here,  
2 appreciate your participation in the program.

3 We'll move next to Agenda Item 10.

4 Can we take a five-minute break while we re-set  
5 people? And I know it's clear that there's several people  
6 who are exiting. So we can take a five-minute break.  
7 Come back here, and we'll take up item 10.

8 (Thereupon a recess was taken.)

9 CHAIRPERSON BROWN: I'll note for the record all  
10 members are present. And we'll reconvene and move to  
11 Agenda Item 10, an update on implementation of SD 10,  
12 fiduciary responsibility.

13 DEPUTY DIRECTOR ESTES: Seems to be the topic of  
14 the hour. Good morning, Chair Brown and Board members.  
15 My name is Tom Estes, the Director of the Administration  
16 and Finance Division. Shirley Willd-Wagner and I  
17 appreciate the opportunity to present an update on  
18 Strategic Directive 10 regarding fiduciary responsibility.

19 But first, just a little bit of background.  
20 Based on the Governor's approved budget in fiscal year  
21 07-08, the CIWMB audit function increased from two to six  
22 auditors. And today I'm pleased to introduce George  
23 Mendoza as the Manager of the Audits and Evaluation.  
24 George is to my left.

25 Prior to signing on with the Board in



1 mid-November of 2007, George faced a number of challenges  
2 as the lead auditor at the California Highway Patrol  
3 Department. You can talk to him about some of those  
4 experiences later.

5           While today we will provide a brief update on  
6 Strategic Directive 10, we plan to come back next month  
7 with our comprehensive audit plan that addresses  
8 Directives. 10.1, 10.3, and 10.5. And we will be seeking  
9 some revisions at that time.

10           I want to also assure you that based on the  
11 Board's feedback in April during the e-waste presentation  
12 we will be including e-waste in the audit mix and the  
13 audit plan, which greatly expands our scope. But it's  
14 very much necessary.

15           I'd like to give you a brief background of where  
16 we've been and where we're going. The audit function  
17 prior to today had two auditors that were co-located and  
18 under the supervision of the Grants Administration Unit.  
19 The majority of the audit function involved audits from  
20 the full spectrum of grants awarded by the Board, such as  
21 Used Oil Block Grants, Tire Grants, Enforcement Assistance  
22 Grants, et cetera. And the resolution of any findings  
23 that were observed during the audits. And that resolution  
24 phase is very time consuming.

25           Supplementing this effort were audits conducted

1 by the Department of Finance through an interagency  
2 agreement with the Board. They in addition to performing  
3 grant audits also audit oil revenue, returns, fee payers,  
4 the oil fund, and they did what we call the FISMA, the  
5 Financial Integrity State Managers Act.

6           So a long-winded way of getting into the update  
7 where we're at with the strategic directives. Strategic  
8 Directive 10.1 which calls for ensuring the fiscal  
9 integrity of all contracts, reimbursements, and the  
10 appropriate protection of CIWMB funds in this directive is  
11 accomplished in two ways. Effective management of our  
12 fiscal processes, grants, contracts, e-waste claims by  
13 line staff -- that's the front line -- and then a  
14 comprehensive audit program.

15           Since last time we updated you, an audit log has  
16 been created to track audit activities and findings. And  
17 these results will help us determine future training needs  
18 as we can make corrections.

19           Strategic Directive 10.2, which is calling for  
20 conducting regular audits of the Board's fiscal processes,  
21 the State's required to regularly validate internal  
22 controls through audits. Specifically, the standard is  
23 prescribed by FISMA and the State Administrative Manual  
24 Section 20000. A FISMA audit consist of evaluation of  
25 eleven cycles: Information technology, budget, cash

1 receivables, purchasing, cash disbursements, revolving  
2 funds, personnel and payroll, contracts, fixed assets, and  
3 financial reporting. So it's a soup to nuts review.

4 The CIWMB underwent a FISMA audit in May 2006.  
5 Rosalie and Cheryl I think may have received findings on  
6 that.

7 Margo, were you here then, too?

8 CHAIRPERSON BROWN: Yes. I was. We were all  
9 here in 2006.

10 DEPUTY DIRECTOR ESTES: So you're very familiar  
11 with that one.

12 DOF did that one. And it established a baseline  
13 for us for measuring our future performance. DOF is the  
14 State's control agency for FISMA compliance and until  
15 recently performed all FISMA audits for the State.

16 However, DOF is moving away from performing the  
17 FISMA audits themselves and has provided guidance to each  
18 organization on how it can meet the intent of the FISMA  
19 audit. So thus the CIWMB will be responsible for  
20 performing the FISMA audit. And George's staff will be  
21 gearing up to do that. We'll be telling you more about  
22 that in June.

23 Strategic Directive 10.3.

24 CHAIRPERSON BROWN: We have a question on two.

25 BOARD MEMBER PEACE: That last statement that you

1 said that the Board is responsible to performing those,  
2 does that make us self-auditing now? What kind of  
3 oversight -- do we have any oversight in the Department of  
4 Finance? Or do we turn something in or --

5 SUPERVISOR MENDOZA: No. Instead of Department  
6 of Finance doing the audit on our behalf, we'd be doing  
7 our own audit.

8 BOARD MEMBER PEACE: So we're self-auditing. Do  
9 we have to report to anybody?

10 SUPERVISOR MENDOZA: Yes. Even if the Department  
11 of Finance does the audit, the report still goes back to  
12 the Department of Finance.

13 CHAIRPERSON BROWN: For their review.

14 SUPERVISOR MENDOZA: Correct.

15 BOARD MEMBER PEACE: Correct.

16 DEPUTY DIRECTOR ESTES: Picking up at Strategic  
17 Directive 10.3, the requirement was to audit five percent  
18 of loans, grants, and contracts in 2007 and then increase  
19 thereafter to the point where 30 percent are audited  
20 annually.

21 Since my last update, we established the Audit  
22 Unit. The last auditor vacancy was filled on April 7th of  
23 2008. So a little over a month ago we were full finally.  
24 There is a shortage of auditors out there. So everybody  
25 is after them and takes a while.

1           So we were resting on our laurels, feeling really  
2 good about ourselves like we were getting ready to go.  
3 And on May 1st, Marlena Wells-Murphy retired. Marlena was  
4 our institutional knowledge having been with the Board for  
5 17 years. And she's going to be missed. But, you know,  
6 it was time and she's got other horizons to look into now.

7           So I'm sitting right next to the Board's  
8 institutional knowledge. This knowledge dates all the way  
9 back to November 13th of 2007. So when they talk about  
10 succession planning and the baby boomer retiring, this is  
11 a good example of that.

12           So anyway, we are now training our staff to the  
13 Board's audit guidelines. And, frankly, most of the  
14 positions were not filled in time to meet that five  
15 percent target that you set for 2007. And quite frankly,  
16 we're finding it difficult at this point to hit the ten  
17 percent target for 2008.

18           So in June, we'll be presenting a comprehensive  
19 plan which will meet the Board's intent for the Strategic  
20 Directive, but it's also going to be tempered by the  
21 magnitude of the work and the available resources.

22           And in addition, the June item will include a  
23 proposal to expand the scope of the subdirective to  
24 include oil fee payers and e-waste claims that further  
25 impact our ability to reach the 30 percent target. So

1 we're going to be lowering that to something that we think  
2 is a little more doable and still provide fairly rigorous  
3 review.

4 BOARD MEMBER MULÉ: Tom, I just have a quick  
5 question. Do we have any idea what percentage we are  
6 currently auditing? You don't -- three. I see --

7 DEPUTY DIRECTOR ESTES: So things are going to  
8 definitely increase from there.

9 And then Strategic Directive 10.4, the Board  
10 basically told us to report annually to you on the status  
11 of grants and evaluation of program effectiveness in  
12 achieving intended results. And Shirley will present this  
13 piece of the update.

14 DIVISION CHIEF WILLD-WAGNER: Thanks, Tom.

15 Good morning, Madam Chair and Board members. For  
16 the record, I'm Shirley Willd-Wagner, Division Chief of  
17 the Financial Assistance Division.

18 I want to thank Tom and Susan, George, and the  
19 legal office not only for pulling together this item, but  
20 also for helping us coordinate and start to work together  
21 in this new world and helping to identify our roles and  
22 responsibilities. And as Tom mentioned, we all have some  
23 roles in Strategic Directive 10, as we heard in the last  
24 item.

25 So 10.4 of the subdirective does call for staff

1 to come to the Board annually to report on the status of  
2 grant programs and evaluation and their program  
3 effectiveness in achieving the intended results. This one  
4 goes a little bit beyond just the finances and talks about  
5 program effectiveness.

6           Currently, we're continuing to evaluate each  
7 grant program. We use that mechanism of the grant  
8 criteria and scoring process to talk through each program  
9 as they come individually to the committees and the  
10 boards, and then we discuss some of the successes in those  
11 items.

12           Grantees evaluate their current programs  
13 especially in competitive grants when they submit their  
14 applications. They have to delineate clear goals and  
15 measurable objectives and also an evaluation plan. As you  
16 know, that's one of the criteria we score against is  
17 making sure they have an evaluation plan in place so that  
18 then when they submit their final reports, the grantees  
19 first look and assess how they did against achieving those  
20 objectives and then staff also review all those reports.  
21 This happens even with the non-competitive grants.

22           So when staff reviews those reports, we share  
23 success stories. We post them on the Internet through our  
24 grant profiles page. We share successes at conferences  
25 and list serves. So we're doing some of that evaluation

1 and sharing of best management type practices.

2           What we have not been able yet to do -- and I  
3 certainly expected to have this all done by the time I had  
4 been in my position for almost a year now. But guess  
5 what. Things don't quite happen the way you would like.  
6 We're looking forward doing a more thorough and complete  
7 evaluation of all the grant programs here at the Board.

8           And that's what the second part of the agenda  
9 item talks about is some of the initiatives to date. We  
10 have done some program by program surveys of the  
11 stakeholders to get input on criteria such as the HHW  
12 grant that we brought to the criteria last month in April.

13           We've instituted biweekly meetings with the legal  
14 office and internal office audits shop. And our program  
15 to really identify some of the areas the program can  
16 streamline our grant processes and look at, you know, the  
17 applications streamlining as well as procedures and  
18 requirements. Terms and conditions are now very  
19 standardized. So we've been meeting internally to start  
20 work on several of those issues.

21           One major accomplishment I feel was absolutely  
22 necessary to do before moving into the full evaluation is  
23 to redesign, reassess our structural position, the  
24 structure of the grant unit within the Board. And we did  
25 this very closely with George and Marie and Holly to



1 design how we would move forward. And at that time, we  
2 identified key critical oversight task roles that needed  
3 some independent decision-making authority. We set up and  
4 make that structure happen within the grant and resources  
5 branch right now. So that piece is accomplished and we're  
6 looking forward to moving forward to our future activities  
7 where we hope to soon meet with -- and we've already  
8 started this -- meeting with some of the other state and  
9 federal agencies that do provide grants and look at their  
10 streamlined approaches. And I've written down some  
11 suggestions we'll be looking into here.

12           And this summer we hope to be holding some  
13 stakeholder workshops in northern and southern California.  
14 I'm really looking forward to this. The stakeholders are  
15 fully engaged in our grant programs. They have great  
16 ideas. They're really looking forward to engaging with  
17 them and moving forward and then we'll bring specific  
18 recommendations to you as a Board and as we move forward  
19 to implement the changes.

20           CHAIRPERSON BROWN: Have they responded  
21 positively to the streamlining and the changes you guys  
22 have implemented? Or have they yet not seen --

23           DIVISION CHIEF WILLD-WAGNER: Stakeholders have  
24 begun to see some of them, such as the application in the  
25 streamlining of the application and in the annual report

1 for instance for the block grants it's now submittable  
2 online I guess is the word.

3 CHAIRPERSON BROWN: Paperless.

4 DIVISION CHIEF WILLD-WAGNER: Worked with the  
5 Information Branch of course to pull off designing the  
6 system. So they're beginning to see some of those  
7 changes.

8 Have not been able to present like the overall  
9 here's what we're going to do for all the programs.

10 CHAIRPERSON BROWN: But have they given you  
11 positive feedback? We like this. This is so much easier  
12 for us.

13 DIVISION CHIEF WILLD-WAGNER: And they've also  
14 given us a laundry list of suggestions they'd like us to  
15 look at in the future.

16 CHAIRPERSON BROWN: That's helpful that they're  
17 engaged.

18 DIVISION CHIEF WILLD-WAGNER: They're very  
19 engaged.

20 CHAIRPERSON BROWN: I think it's excellent.

21 Do we have another one? I don't want to jump in  
22 in the middle. I'll let you guys finish.

23 DEPUTY DIRECTOR ESTES: Just the last one  
24 rounding out is Strategic Directive 10.5 requiring  
25 self-audit of all grant programs to be conducted by the

1 grantee at the conclusion of the grant. And the system  
2 was to be in place by the end of 2007.

3           Since we last updated you on this, we've convened  
4 meetings with program and legal, developed a grant  
5 evaluation tool, provided training to internal  
6 stakeholders, accounting and audit staff. Providing  
7 training on fiscal processes and audit methodology as a  
8 precursor to grantee training.

9           As this directive was further developed, staff  
10 recognized that a self-audit of each grant is going to be  
11 cost prohibitive for the grantees. If you can envision a  
12 grantee that would be may be received on the order of five  
13 to \$10,000 from the Board, the cost of an audit could  
14 probably exceed that. And at the June meeting, staff will  
15 present an alternative to a self audit, which we believe  
16 will be cost effective but still meet the intent of the  
17 directive. But I just wanted to get that on the record  
18 that we're finding that to be kind of an onerous  
19 requirement.

20           So this basically concludes our update of the  
21 strategic directive. And thank you for the opportunity to  
22 do that. And we look forward to some further in-depth  
23 discussions with you next month. Do you have any  
24 questions?

25           CHAIRPERSON BROWN: No. Very cool. Very

1 excellent presentation. Great job. You guys are thinking  
2 outside of the box looking at ways to make things more  
3 efficient both internally and externally for our  
4 stakeholders, which I think is the intent of the strategic  
5 directives. And empower you and enable you to go out and  
6 make changes that will improve the programs that we  
7 administer here at the Board. And you've done that -- or  
8 you continue to do that on a daily basis. So I applaud  
9 you for your efforts and all of your whole teams. I think  
10 it's excellent.

11 BOARD MEMBER PETERSEN: Bravo, guys.

12 BOARD MEMBER MULÉ: Great work. Thank you.

13 CHAIRPERSON BROWN: Okay. So we have no other  
14 questions, thank you very much.

15 Next is Item 11, Rubia.

16 ASSISTANT DIRECTOR PACKARD: Thank you, Madam  
17 Chair. Good morning, Board members. We weren't quite  
18 sure whether you wanted to go through this or not. As you  
19 recall at the Committee meeting, you did direct us to make  
20 some changes. And we did include those in the item. So  
21 at your pleasure would you like me to walk through those?

22 CHAIRPERSON BROWN: No. I think you're right. I  
23 think we did. We went through several changes at the  
24 Committee, and you guys have made them. So we can just go  
25 through them. If anybody has any questions regarding any

1 of these, we can do that.

2 ASSISTANT DIRECTOR PACKARD: I can highlight for  
3 you where the newest set of changes were from last week.

4 CHAIRPERSON BROWN: I don't even think we need to  
5 do that. Does anyone have any questions regarding any of  
6 it?

7 BOARD MEMBER PEACE: There's just basically just  
8 three changes. The 9.1 where we're moving E and I.

9 ASSISTANT DIRECTOR PACKARD: There was a change  
10 that was directed by the Board by the Committee on BL 8  
11 also.

12 8.1, C and D we added agreements with other  
13 governmental entities because interagency agreements are  
14 only with State agencies. So those two changes also.

15 And 8.2, the same change. So that was the first  
16 one that the Board directed at the Committee last week.

17 BOARD MEMBER PEACE: I'm still --

18 ASSISTANT DIRECTOR PACKARD: BL 9, we removed 9.1  
19 E.

20 And 9.1, I and H remained.

21 That change of H remained.

22 CHAIRPERSON BROWN: Right. And then the --

23 ASSISTANT DIRECTOR PACKARD: And then the last  
24 change was in BL 10, and the language as directed was in  
25 BL 10.

1 CHAIRPERSON BROWN: Questions?

2 BOARD MEMBER PEACE: I would say I'm having a  
3 hard time with BL 10. Mark, can I ask you a question?

4 EXECUTIVE DIRECTOR LEARY: Certainly, Member  
5 Peace.

6 BOARD MEMBER PEACE: Have we ever not been able  
7 to respond to an emergency in a timely manner?

8 CHAIRPERSON BROWN: I don't think that's the  
9 issue though.

10 BOARD MEMBER PEACE: Have we ever been criticized  
11 for not responding quickly enough?

12 EXECUTIVE DIRECTOR LEARY: No, we haven't. I  
13 think we've responded favorably, but then again --

14 CHAIRPERSON BROWN: The practice of the Board  
15 though is that the administration will go to the Executive  
16 Director. And the Executive Director in consultation with  
17 the Board Chair does that. That has been the practice  
18 throughout with or without strategic directives.

19 So when the strategic directives were developed,  
20 that just codified what the practice was. And of course  
21 as a course of business Mark consults with me or previous  
22 chairs on responding to the administration when a declared  
23 emergency has been declared by the Governor. I mean, it's  
24 just a function of government. So --

25 BOARD MEMBER PEACE: To me, this goes a little

1 bit further by saying we're giving him the authority to  
2 award and execute contracts and --

3 CHAIRPERSON BROWN: That's not the change. The  
4 change only -- the whole thing is not changed. That's a  
5 clarification. You highlighted the whole thing. The only  
6 change that was requested in 10.3 was to add with the  
7 approval of the Chair.

8 BOARD MEMBER PEACE: That was from the Committee  
9 meeting. This whole thing is new.

10 CHAIRPERSON BROWN: No, it is not. That is what  
11 I'm --

12 BOARD MEMBER PEACE: The whole thing is new.

13 EXECUTIVE DIRECTOR LEARY: Member Peace, let me  
14 take the conversation a different direction. As Margo  
15 states, there has never been a circumstance, you know, I  
16 wouldn't and my predecessor wouldn't have -- and we're  
17 going now back to 1991. It's been two Executive  
18 Directors. He and I would not spend any substantial  
19 amount of money without interaction with at a minimum the  
20 Chair of the Board.

21 What I'm concerned or your concern, Member  
22 Peace -- it's interest strictly in the interest of  
23 efficiency. There have been times -- today is an  
24 excellent example -- where members are out of the country.  
25 And I'm concerned about our ability to respond to an

1 emergency in a declared situation if I have to convene an  
2 emergency meeting of the Board when a member or two may be  
3 out of the country. You've been out of the country over  
4 the last several months. Another member is out of the  
5 country today.

6 I certainly sense your concern about this, and I  
7 appreciate it very much. And I can assure you over the  
8 history of the Executive Directors since 939 was passed,  
9 in a declared emergency, we've never ever made any  
10 decision about substantial extension of Board resources  
11 without a minimum consultation with the Chair. And in the  
12 event the situation allows, certainly some discussion with  
13 all of the members.

14 I don't know what more of an assurance I could  
15 offer you. This is purely in the interest of being  
16 responsive to the administration and being responsive to  
17 getting this done in a declared emergency and have the  
18 Board contribute where the Board could contribute and make  
19 a meaningful contribution.

20 BOARD MEMBER PEACE: With the Angora fire, didn't  
21 you bring that to the Board --

22 CHAIRPERSON BROWN: We only did because the Board  
23 meeting was the very next day. But we acted -- Mark acted  
24 on behalf of the Board.

25 BOARD MEMBER PEACE: But it was a good thing we



1 did it. My concern is not that I don't --

2 CHAIRPERSON BROWN: But the practice wouldn't be  
3 that he wouldn't notify the Board, because he always does.  
4 The practice is that in a declared emergency if the  
5 administration asks the Waste Board to respond that we  
6 have the ability to respond and the Board Chair acting on  
7 behalf of the Board approves that. But Mark would still  
8 be responsible for bringing to the Board any material item  
9 or funds that are expended on behalf of the Board. I mean  
10 it's not like --

11 BOARD MEMBER PEACE: It doesn't say that. It  
12 says he can approve everything and let us know to the  
13 extent practicable.

14 CHAIRPERSON BROWN: Then we can amend it and say  
15 report to the Board at the next scheduled Board meeting.  
16 Those things can be handled.

17 But I think my concern and Marks is we're taking  
18 the ability of the Waste Board to respond to declared  
19 emergencies by the Administration out of the hands of the  
20 Executive Director and the Chair on behalf of the Board.  
21 And if there is a declared emergency and we can't reach  
22 all Board members in a timely manner -- because declared  
23 emergencies we are asked to act in less than 24 hours on  
24 these declared emergencies.

25 So if you want to add something, I think it would

1 be perfectly appropriate to add that Mark reports on any  
2 action taken on behalf of the Board with the approval of  
3 the Chair at the very next scheduled Board meeting or at a  
4 time when all Board members can be collected.

5 EXECUTIVE DIRECTOR LEARY: That would be easy.

6 BOARD MEMBER PEACE: I'm still concerned with the  
7 awarding and the executing of contract. None of that  
8 stuff has to be done the day of the emergency.

9 EXECUTIVE DIRECTOR LEARY: It may.

10 BOARD MEMBER MULÉ: Cheryl if I can, please?

11 Let's do a hypothetical here. Some major  
12 earthquake in San Diego. You're done there. I'm down  
13 there. Gary is down there. Or you're in Europe. He's  
14 out the country.

15 Our houses are destroyed. We may or may not be  
16 alive. You know, we may have family members that are  
17 seriously injured. Just think about this, because I've  
18 been through disasters before and I know what this is  
19 like.

20 We're going to call a meeting of the entire Board  
21 to get Mark -- the Governor declares a state of emergency.  
22 There is no communication going on. Again, I've lived  
23 through this. There is no communication. There is no  
24 phone service. There is no radio. There is no TV.  
25 There's nothing. Major earthquake. How is he going to

1 contact you and Margo and me and Gary and Wes and anybody  
2 else who's on this Board when there's no communication?  
3 His hands are tied. The Board the organization's hands  
4 are tied in terms of responding to this emergency because  
5 we have to have a meeting to talk about whether or not  
6 we're going to expend funds. That does not make any sense  
7 to me at all.

8 What does make sense is that we delegate that  
9 authority. We already have. I mean, that's practice  
10 right now. But with the concurrence or with the approval  
11 of the Chair. Because trust me, it very well could happen  
12 that there will be a major earthquake or some other  
13 disaster or a fire like last year.

14 BOARD MEMBER PEACE: There has been major  
15 earthquakes and stuff during this time that the Board has  
16 been around. And like Mark said, it's never been -- we've  
17 never had --

18 CHAIRPERSON BROWN: I'm going take this  
19 completely off the table because this is a discussion that  
20 is going nowhere right now.

21 And I'm going to tell you that this organization  
22 is part of the emergency response team at OES. And we  
23 have responsibilities to the Governor's emergency response  
24 plan that transcend this Board. And Cheryl, if you object  
25 to having this added to BL 10, then I would like ask to

1 ask for a motion to remove it from the item today.

2 BOARD MEMBER MULÉ: Madam Chair, I would like to  
3 move the Resolution 2008-68.

4 CHAIRPERSON BROWN: I need an amendment to pull  
5 it first.

6 BOARD MEMBER PEACE: I think you should pull it,  
7 because I'm not ready to vote for this because I think  
8 it's the Board job -- it's our oversight, our job, and the  
9 Board's job is to keep everything in a public process.

10 BOARD MEMBER MULÉ: I would like to pull 10.3  
11 then, Madam Chair.

12 CHAIRPERSON BROWN: Can I have a second?

13 BOARD MEMBER PETERSEN: I second.

14 CHAIRPERSON BROWN: An amendment to pull 10.3 has  
15 been moved by Member Mulé and seconded by Member Petersen.

16 Kristen, can you call the roll?

17 EXECUTIVE ASSISTANT GARNER: Mulé?

18 BOARD MEMBER MULÉ: Aye.

19 EXECUTIVE ASSISTANT GARNER: Peace?

20 BOARD MEMBER PEACE: Aye.

21 EXECUTIVE ASSISTANT GARNER: Petersen?

22 BOARD MEMBER PETERSEN: Aye.

23 EXECUTIVE ASSISTANT GARNER: Brown?

24 CHAIRPERSON BROWN: Aye.

25 BOARD MEMBER PEACE: Next month when you get can

1 get four votes, that's fine with me. But I just cannot --

2 CHAIRPERSON BROWN: We will. And we understand  
3 exactly your position. And we will move it next month.

4 BOARD MEMBER MULÉ: Madam Chair, I'd like to then  
5 move the amended Resolution 2008-68, which would be the  
6 approval of the governance policies BL 5 to 10, minus  
7 10.3.

8 BOARD MEMBER PETERSEN: Second.

9 CHAIRPERSON BROWN: It's been moved by Member  
10 Mulé and seconded by Member Petersen.

11 Kristen, can you call the roll?

12 EXECUTIVE ASSISTANT GARNER: Mulé?

13 BOARD MEMBER MULÉ: Aye.

14 EXECUTIVE ASSISTANT GARNER: Peace?

15 BOARD MEMBER PEACE: Aye.

16 EXECUTIVE ASSISTANT GARNER: Petersen?

17 BOARD MEMBER PETERSEN: Aye.

18 EXECUTIVE ASSISTANT GARNER: Brown?

19 CHAIRPERSON BROWN: Aye.

20 Resolution passes. And we will move to Item 12.

21 PROGRAM DIRECTOR LEVENSON: Thank you, Madam  
22 Chair. Howard Levenson again.

23 Item 12 is consideration of the RMDZ loan  
24 application for Crown Poly, Inc.

25 Obviously, we had a lengthy discussion about this

1 particular loan application at the Committee meeting last  
2 week. Staff's recommendation to approve the loan is based  
3 on how we have dealt with the criteria that have been  
4 established by the Board for loan applications in the  
5 past. And our recommendation remains the same.

6           However, I do understand that there's a policy  
7 issue here regarding the juxted position of our direction  
8 we're going with plastic bags in general visive the loan  
9 criteria.

10           Certainly, we will be sure to address this policy  
11 issue and any other related to it when we come back to you  
12 in the fall or a couple months from now with a new  
13 criteria item regarding the loan program. I make that  
14 pledge to you, and we'll seek your direction on how to  
15 make this a broad policy statement at this time.

16           But other than that, I think we seek your  
17 direction on how to deal with this particular loan  
18 application at this time.

19           CHAIRPERSON BROWN: Well, I think that clearly at  
20 the Committee meeting -- I forgot to do Committee Chair  
21 reports. I'm so sorry.

22           BOARD MEMBER MULÉ: Mine was short, so it's fine.

23           CHAIRPERSON BROWN: I didn't give Gary a change.

24           BOARD MEMBER PETERSEN: Mine were all fiscal.

25           CHAIRPERSON BROWN: I think clearly at our

1 Committee meeting we had a very exhaustive discussion  
2 about the philosophical difficulties we were presented  
3 with. And I think until they come forward in an item, you  
4 don't realize where policy may or may need to be adjusted.

5 But given that fact, these things should be  
6 determined and a policy decision should be determined or  
7 change should be determined in a criteria item, rather  
8 than on an individual item for a loan unfortunately.

9 So I believe at this point we just have to take  
10 the item up, see if there is sufficient support at the  
11 Board level to amend or to grant the loan and see where we  
12 go from there. Do we have any discussion or --

13 BOARD MEMBER PETERSEN: Madam Chair, I think I  
14 made myself pretty clear at my Committee meeting how I  
15 felt about this. So it's the pleasure of the Board.

16 BOARD MEMBER MULÉ: Thank you, Madam Chair.

17 I struggled with this one, too. And I listened  
18 to the discussion, although I did not participate in it.  
19 And I know that there's a direction that we'd like to go.  
20 But from my perspective, we're not there yet formally.

21 And staff was operating in good faith as was the  
22 Loan Committee based on the current criteria and the  
23 current policies.

24 And so I just -- again, I'm struggling with this,  
25 because we've gotten as far as we have. And then it gets

1 to the Board. And we're saying, oh, well, this isn't  
2 where we're going in terms of our policy. But it is where  
3 we are now.

4 So I would like to move this item. And if we  
5 have the votes, fine. If not or we don't even have a  
6 second, that's fine. But I just think that we should at  
7 least entertain a motion.

8 CHAIRPERSON BROWN: Cheryl, do you have any  
9 comments? Would you like to make a motion?

10 BOARD MEMBER MULÉ: Move 2008-81.

11 CHAIRPERSON BROWN: Do I have a second?

12 I'll second it.

13 It's been moved by Member Mulé and seconded by  
14 Brown.

15 Kristen, can you call the roll?

16 EXECUTIVE ASSISTANT GARNER: Mulé?

17 BOARD MEMBER MULÉ: Aye.

18 EXECUTIVE ASSISTANT GARNER: Peace?

19 BOARD MEMBER PEACE: No.

20 EXECUTIVE ASSISTANT GARNER: Petersen?

21 BOARD MEMBER PETERSEN: Abstain.

22 EXECUTIVE ASSISTANT GARNER: Brown?

23 CHAIRPERSON BROWN: Aye.

24 We do not have four votes to concur on this loan.

25 We do not have four votes to deny this loan. Therefore,



1 we will just put the loan over until next month. Okay.

2 And I think that's it. So anyway, thank you all.

3 CHIEF COUNSEL BLOCK: Closed session.

4 CHAIRPERSON BROWN: We have a closed session. So

5 we will meet in our closed session room for a brief closed

6 session. Thank you.

7 (Thereupon the California Integrated Waste

8 Management Board recessed into closed session

9 at 12:00 p.m.)

10 (Thereupon the California Integrated Waste

11 Management Board adjourned closed session

12 at 12:10 p.m.)

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1 CERTIFICATE OF REPORTER

2 I, TIFFANY C. KRAFT, a Certified Shorthand  
3 Reporter of the State of California, and Registered  
4 Professional Reporter, do hereby certify:

5 That I am a disinterested person herein; that the  
6 foregoing hearing was reported in shorthand by me,  
7 Tiffany C. Kraft, a Certified Shorthand Reporter of the  
8 State of California, and thereafter transcribed into  
9 typewriting.

10 I further certify that I am not of counsel or  
11 attorney for any of the parties to said hearing nor in any  
12 way interested in the outcome of said hearing.

13 IN WITNESS WHEREOF, I have hereunto set my hand  
14 this 27th day of May, 2008.

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